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# INDIAN STATES & BRITISH INDIA THEIR FUTURE RELATIONS

WITH TEN APPENDICES CONTAINING MANY DOCUMENTS,  
TWO TABLES AND A MAP

BY

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WITH A FOREWORD

BY

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To  
MY FATHER  
WITH  
AFFECTION & GRATITUDE.

## FOREWORD.

It is quite natural that during the last two or three years the problem of the Indian States, especially in its relation to British India, should have come to the fore. The growing recognition of the importance and the complexity of the problem has resulted in the production of a number of books, by English and Indian authors, of varying merits. From the point of view of the political propagandist, the Indian States lend themselves easily as a material for the expression of wholly divergent views. There is a school of politicians in England who think and maintain that the problem is insoluble, and being insoluble it presents insurmountable difficulties in the way of British India achieving Dominion Status. There is another school in India which with equal facility holds that the Indian States are an anachronism and that the only way of dealing with them is by ending them. We have again a growing number of politicians who argue very strenuously that we of British India ought not to be so selfish as to try for our betterment and ignore the interests of our down-trodden brethren in Indian States. Some of them do not stop short of suggesting the adoption of coercive methods, and as they themselves are unable to adopt such methods, they expect the British Government to put the necessary pressure. I do not take notice of the 'newspaper trial' of Indian princes, for the simple reason that such trials may be very good propaganda—but scarcely furnish an impartial or just or stable solution of the problem. The Indian princes themselves have in recent years indulged at times in language not free from a considerable amount of ambiguity—thus, for instance, their repeated references to a federation of States in India, on the federal system of government for India. I very much doubt whether the full implications of such language are

always present to the minds of all those who use it to adorn their perorations.

Difficult no doubt as is the problem, it seems to me that if we approach it in a spirit of understanding and good-will, and sympathy for the rulers and their subjects we may hope to find some workable solution. We must have first a true perspective, and next a sense of the realities of the situation. The temptation to indulge in legal and constitutional theories, not wholly applicable to the facts as we find them is as great as the temptation on the other hand to take shelter behind the theories of the divine right of 'kings' and conceptions of Government wholly inconsistent with the spirit of the time. Much was expected of the Butler Committee—but frankly it has not advanced the problem in any appreciable degree towards its solution. 'Paramountcy is paramount' may be a very good epigram, possibly it is a good rendering of the Austinian theory of suzerainty—but it affords no answer to the interrogative spirit of Indian India or British India. A clearer vision is perhaps to be found in the historic announcement of Lord Irwin when he envisaged an India not divided into water tight compartments, but as a single entity, the component elements of which call for a harmonising process.

Professor Gurmukh Singh has in this book made an attempt to place before his readers, facts and figures and points of view which should enable each individual reader to form his own opinion. I can not say that he has no leanings and no views of his own; he was bound to have these like all authors—but I venture to think that if he has at places advocated certain views, he has on the whole shown considerable self-restraint and moderation. I can not say that I agree with everything that he says, for instance, when he says "there is no doubt of the fact that none of the Indian States possess in practice even an internal autonomy" it may be permissible to join issue with him, on the authority of Lord Lindlay in the well

known case of Duff versus Kelantine Government. In theory they can claim to be and are internally sovereign and in practice many of them enjoy a large measure of autonomy which may at times be encroached upon—but which nevertheless survives such encroachments. The intervention of the paramount power can not constitutionally deprive them of their claim to internal sovereignty, it may at times be resented by the princes, it may at others be invoked or supported by their subjects or their British Indian critics. Under the present system the true limits of such intervention can only be prescribed by their internal growth and administration and constitutional readjustments. Again when he says that the ideal surely is that of a federation between British India and the Indian States, he will probably appeal to many people, but when he says that it is not possible to have a federation for a considerable time, one is tempted to ask what is to happen meanwhile. With one of his recommendations in his concluding chapter, viz., the establishment of a permanent Supreme Court, I for one cordially sympathise.

It is not my intention to write a review of the book or to dogmatise upon certain aspects of the problem. I simply content myself with an appreciation of his industry, ability and desire to present the problem in a spirit of helpfulness. The problem can no longer be approached in a spirit of carping criticism of the system that prevails in Indian India, nor in that of the 'touch-me-not' conservatism refusing to take note of the signs of times. The only true point of view is that which seeks to secure their individuality and autonomy and at the same time defines their true relation to a self-governing British India. This is more the work of a practical statesman than that of a theorist, and the merit of Mr. Gurmukh Singh's book to my mind is that it has not theorised as freely as some other books have in recent years.

ALLAHABAD,  
17th March, 1930.

T. B. SAPRU.

## PREFACE.

During the last few years the subject of Indian States has suddenly become prominent and it is now universally recognised that the relations between British India and the Indian States need readjustment. His Excellency Lord Irwin has drawn prominent attention to the subject in his historic Pronouncement of October 31st, 1929. Except for the attempts made by Sir Sivaswamy Aiyer in his "Indian Constitutional Problems" and the authors of the Nehru Report, no one in British India, so far as I am aware, has made any serious or systematic effort to grapple with the problem. There are of course a few public men like Sir Tej Bahadur Sapru, Sir M. M. Visvesvaraya, the Rt. Hon'ble Mr. Srinivas Sastri, Diwan Bahadur M. Ram Chandra Rao and Mr. C. V. Chintamani who have thought on the subject and have given occasional expression to their views. But otherwise the problem remains sadly neglected. The book of Mr. Panikkar "Indian States and the Government of India" avoids questions of future relations, and the schemes put forward by the subjects of Indian States are not of practical nature, although I have derived help from the writings of Mr. Gundappa, Mr. Hosakoppa Krishna Rao, Sardar M. V. Kibe, Mr. Abhayanker and Mr. Pathak and from the publications of the Indian States Subjects Conference, the latest of which is the memorandum submitted by the Indian States' People to the Butler Committee. It is no doubt true that the Princes have spent enormous sums of money to prepare their case for the Indian States Committee. They have recently published through the Directorate of the Chamber's Special Organisation a book entitled "The British Crown and the Indian States" which embodies the standpoint from which the Princes look at the problem of relationship and contains the economic demands of the



States. The constitutional position taken up by the Princes has been presented before the Butler Committee by Sir Leslie Scott and four other British Counsels and it is stated in the "Joint Opinion" which is printed as an appendix to the Committee's Report. But "the British Crown and the Indian States" and the "Joint Opinion" are both in the nature of special pleadings and not the result of scientific or impartial enquiry.

The Butler Committee was appointed on the 16th December, 1927 "to report upon the relationship between the Paramount Power and the Indian States" and to recommend any adjustments that may be found necessary "in the financial and economic relations between British India and the Indian States." The Report of the Committee was published on the 16th April, 1929. It is not necessary to make any detailed reference to the recommendations contained in the Report here: They are fully discussed in the body of the book. It is sufficient to say that they have received a very mixed reception at the hands of the Princes and have met with severe criticism from the Indian nationalist press. To the scientific enquirer the main value of the Report lies in the fact that it states the British position connectedly, lucidly and with emphasis, otherwise it does not afford much light or guidance. On the whole, it appears to me that the Committee has not justified itself or the money that has been spent on it and for preparing cases and opinions that have been submitted to it. I feel that a report like the one issued by the Committee could easily have been produced by the Political Department without any special preparation or extra cost. However, I have carefully examined and discussed all the recommendations of the Committee before making my own suggestions.

In the following pages an attempt has been made to study the problem of future relations from the scientific but not merely academic point of view. On the other hand, every effort has been made to make the study

practical and realistic and the problem has been dealt with from the broadest standpoint possible. In the introduction I have mentioned the various facts—geographical, historical and others—a knowledge of which is, in my opinion, needed to tackle the problem of future relationship and I have made full use of the materials contained in such books as Sir William Lee-Warner's "The Native States of India," Mr. Panikkar's "An Introduction to the Study of the Relations of Indian States with the Government of India," Tupper's "Our Indian Protectorate," The Imperial Gazetteer Vol. IV., the Montague-Chelmsford Report, Aitchison's Collection of Treaties, Sanads, Engagements, etc., "The Indian States Register and Directory," etc. I have also attempted to state the present position of the relationship clearly and succinctly before discussing the problems of the future and making suggestions for their solution. Thus the book deals, not only with the future, but also the past and present relations between the Indian States and British India. In the appendices I have brought together all the relevant documents and other materials needed for forming right conclusions on the problem. Every effort has been made to make the study both brief and comprehensive, scientific and practical. The hope is expressed that it may prove helpful at the present juncture when the Round Table Conference is expected to meet shortly to deal with this problem along with other high matters of great importance to the future of this country.

I am extremely grateful to Dr. Sir Tej Bahadur Sapru for contributing the Foreword, which greatly adds to the value of the book, more particularly because he wrote it in the midst of very heavy professional and public work and also of domestic distractions. I am also thankful to Principal A. B. Dhruva for reading portions of the book in manuscript and for general guidance and encouragement. I am indebted to my young friend and colleague Mr. Mukut Behari Lal for occasional help in proof

correction. There are others whose help I am not at liberty to acknowledge by name ; but I am deeply grateful to them.

The university is the home of free thought and it is the privilege of a professor to discuss even delicate questions with perfect candour and impartiality—openly, frankly, without bias and animus. I have attempted to carry out my task in this spirit. In the end, I wish to state clearly that the views expressed in the book are my own, individual views and that they are given here in my individual capacity ; and that the responsibility for whatever defects may be found is entirely mine.

GURMUKH N. SINGH.

BENARES HINDU UNIVERSITY,

*10th February, 1930.*

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# INDIAN STATES & BRITISH INDIA :

## THEIR FUTURE RELATIONS.

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### INTRODUCTION.

#### I

Nature has made India a more or less self-sufficing unit, but historical accidents have divided her into a large number of separate political entities. Physically, economically and culturally India is one; politically she is a congeries of large and small states.

Politically India is divided into four unequal parts—the "British", "Indian", "French" and the "Portuguese". However, the French and the Portuguese possessions taken together cover a total area of only 1,834 square miles and contain a population of less than 900,000 people. They, thus, form an insignificant portion of India which may be left out of consideration here. For our purposes, India may be divided into two parts—British India, administered more or less uniformly, under one law, under the direct control of the British; and the Indian States, administered by Indian potentates with varying degrees of autonomy, and without any regard to uniformity, each separate from the other.

British India, though divided into provinces with provincial governments of their own, which are becoming more and more autonomous as time goes

on, is one political unit with its strong central government ultimately responsible to the British Parliament. But the Indian States do not form a single political unit. They are separate political entities. Each is separately administered and has no connection with the administration of other States. Their mutual relations are not regulated by them but by the Suzerain Power. They have no governmental body to decide and administer common matters. And it is only recently that the Indian Princes have gained the right of meeting together to discuss matters of common concern and to take concerted action for the redress of common grievances. But uptil now there is not even a semblance of union between them. In fact there is nothing common between them except that they are all autocratically governed by Indian Potentates or Princes and that they are not sovereign but are under the suzerainty of the British. It is, therefore, wrong to speak of them as if they formed a single unit comparable in any way to British India. What is called "Indian India" is not one political unit but is a congeries of states, large and small, a most heterogenous collection that one can think of.

Indian States do not form one solid or continuous mass of territory. They are patches spread over the whole length and breadth of the country surrounded in most cases by British territory. They are hopelessly, inextricably mixed up with British India, and *vice versa*. Most of the States are land-locked states and are dependent on British Indian

ports for communication and trade with the outside world. On the other hand, intercommunication in British India is impossible without traversing territory of the Indian Princes. As pointed out by H. H. the Maharaja of Patiala, "it is impossible to travel from Bombay to Calcutta, from Bombay to Delhi, or from Bombay to Madras without traversing in one's journey hundreds of miles of territory which are not under British rule." Geographically Indian States and British India are one and they are both physically interdependent.

The physical interdependence of the States and British India has many important consequences. It means that the Indian States must be affected by the economic and fiscal policy of British India. Indeed the economic interests of both British India and the Indian States are one and they form not only a geographical unit but an economic unit as well.

The Indian States and British India are also one from the social and religious points of view. It is no doubt true that in India we have diversity of race, language and religion; but there are no differences in this respect between British India and the Indian States. If the population of British India is a mixed one, so is that of the Indian States and its constituent elements are also the same. If British Indian provinces are not homogenous racially and linguistically, so are not the Indian States. If British India is dominated by the problem of Hindu-Moslem unity or the problem of untouchability, so

are the Indian States. Socially and religiously India is one, and the same culture pervades the whole country. It is only politically that India is divided into British India and the Indian States.

## II

The Indian States together "cover an area of 598,138 square miles with a population of 68,652,974 people, or about two-fifths of the area and one fifth of the population respectively of India including the States but excluding Burma." They are spread over the whole continent of India and possess all types of climates, soils and scenery. This is how they are described in the Butler Report : — "In the Indian States nature assumes its grandest and its simplest forms. The eternal snows of the Himalayas gather up and enshrine the mystery of the East and its ancient lore. The enterprise of old world western adventure now slumbers by the placid lagoons of Travancore and Cochin. The parched plains of Rajputana and Central India with their hilly fastnesses recall the romance and chivalry of days that still live and inspire great thoughts and deeds. The hills and plains of Hyderabad and Mysore, famed for gems and gold, for rivers, forests, water-falls still cry out great names of history. Over the dry trap plateau of the Deccan swept the marauding hosts of the Mahrattas, eating here and drinking there, right up to ancient Delhi. From the west, the ports of Kathiawar with their busy progressive people stretch out hands to the



jungles of Manipur in the East with their primitive folk and strange practices.....”

The Indian States fall into certain natural groups. First of all, there is the State of Jammu and Kashmir in the extreme North-West, one of the loveliest spots in the world, big enough to be a group by itself. Then come the 34 Punjab States, out of which as many as 18 are in the Simla Hills. In the whole of the United Provinces there are only three States, each separated from the other by long stretches of British territory. In Bihar and Orissa there are 26 States forming a compact block in the south of the Province. In Bengal there are only two States of Cooch-Bihar and Tripura; and in Assam there is the single State of Manipur. In the North-East, there is the mountain State of Sikkim. In the extreme west of India we have two States in Baluchistan. Coming a little nearer there is a group of 206 States in what is called Western India States Agency. Next there is the group of Rajputana States numbering in all 21. Then there is the big State of Gwalior now a separate unit by itself, with a small State of Khaniadana under the charge of the Gwalior Resident. Next come the two blocks of Central India States numbering in all 90. In the Central Provinces there are 15 States. Next we have near the Western Coast the important State of Baroda. Then we have the group of 151 Bombay States. In the Deccan we have the biggest Indian State of Hyderabad, on the south of which there is another big State, one of the most progressive of

Indian States, the State of Mysore. In the Madras Presidency there are five States in all, two of which, Cochin and Travancore, are on the extreme south-west of the peninsula.

There are thus 563 States in all—according to the list published by the Government of India, corrected up to January 1st, 1927. The number is 562 according to the figures given in the Butler Report. Though they are all called States they vary a great deal in size and authority. While some of them cover thousands of square miles there are others with only a few acres of territory. While some of them count their subjects in millions there are others which have less than 100 inhabitants. While some of them get several crores in revenue annually there are others whose annual income does not exceed two figures. While some of them possess full judicial autonomy there are others with very few governmental powers. While some of them are progressive and modern there are others which are semi-feudal and medieval in character and spirit. To quote the Butler Report: The term Indian State covers “at one end of the scale, Hyderabad with an area of 82,700 square miles, with a population of 12,500,000 and a revenue of  $6\frac{1}{2}$  crores of rupees or about £5,000,000 and at the other end of the scale, minute holdings in Kathiawar amounting in extent to a few acres only, and even, in certain cases, holdings which yield a revenue not greater than that of the annual income of an ordinary artisan. It includes also states

economically, politically and administratively advanced, and states, patriarchal, or quasi-feudal in character which still linger in a 'medieval' atmosphere; states with varying political powers, constitutional states like Mysore and Travancore and states which are under purely autocratic administration. The one feature common to them all is that they are not part, or governed by the law, of British India."

✓ The Indian States present indeed a bewildering variety of types; it is this fact that makes a scientific classification of them very difficult. They are now officially divided into three classes:—

(1) States the rulers of which are members of the Chamber of Princes in their own right. They number 108 States, with a total area of 514,886 square miles, population of 59,847,186 people and revenue of 42·16 crores of rupees. They are all "Salute States" though there are ten other salute states, the rulers of which have not been accorded the right of separate and personal representation in the Chamber of Princes.

(2) States the rulers of which are represented in the Chamber of Princes by twelve members of their order elected by themselves. They number in all 127, with an area of 76,846 square miles, population of 8,004,114 people, and revenue of 2·89 crores of rupees.

(3) Estates, Jagirs and others with no representation in the Chamber of Princes. They are 327 in number with an area of 6,406 square miles,

population of 801,674 people and revenue of .74 crores of rupees.

This threefold classification too is not of very great practical importance. Its chief utility is in connection with the constitution of the Chamber of Princes; otherwise it is as unsatisfactory as the previous classifications. Sir Charles Metcalfe was, I believe, the first to attempt a classification of the States. He divided them into quasi-sovereign states and "dependent" principalities and classified Indian Rulers into "Treaty" Princes and "Sanad" Chiefs. Lord Dalhousie adopted this classification in actual practice and applied his doctrine of lapse to the "dependent" states and treated the "quasi-sovereign" states with greater consideration. But after the transference of the Government of India to the Crown the distinction between the Treaty Princes and the Sanad Chiefs ceased to matter and both classes of rulers were treated similarly by the Government of India. Several of the Sanad States were raised to the position of first class States and many of the bigger Treaty States were treated with as little consideration as the smallest of the non-treaty States. This has been resented by the bigger States. It is, however, not possible to go back to the classification of Sir Charles Matcalfe, for the simple reason that the Sanad Chiefs who have won higher recognition will not consent to such a reversion. In my opinion, the most useful basis for the regulation of future relations is to divide the states anew into "big" and "small" states according to

their revenue, area, population, past greatness and dignity. In the body of the book I have attempted to enumerate all those states—41 in all—which deserve the name of "big" or "bigger" states and which can stand as financially self-sufficing units, capable of having an efficient system of administration according to modern standards. In my opinion, they alone can remain as single administrative units in any system of federation between British India and the Indian States. Others can only join if they agree to form themselves into groups big enough to be financially self-supporting. In the meantime the "bigger" states deserve to be treated with very much greater consideration than the "smaller" States.

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## III

The final authority in each State is its ruler, the Prince or the Chief, called the Raja or Maharaja, Rana or Maharana, Rao or Maharao, Thakore or the Jam, the Nizam or the Nawab, the Mir or Sawbwa, the Khan-wali or Maharawal, etc., according to local traditions. Almost everywhere there is personal rule and in no state does there exist reign of law in the strict sense of the term. However, it is possible to divide the states from this (*i.e.* the administrative) point of view into two categories:—

- (1) The states which have attempted to modernise their administration on Western lines and are paying attention to the development of their

economic resources and man power and where a beginning has been made in establishing representative institutions;

and (2) the states which are still being administered in the good old way and where the atmosphere is medieval and the organisation patriarchal and semi-feudal.

Most of the bigger States in the South and a few of the bigger States in the centre and the North—in all about a dozen—belong to the first class; whilst the remaining—the vast majority of the States—belong to the second category. Mysore is perhaps the best example of the States in the first class and Udaipur or Jaipur—in fact most of the Rajputana States—of the second class. A description, therefore, of the conditions in Mysore and the majority of the Rajputana States will give a fair idea of the conditions as they prevail in the two categories of the Indian States.

(1) The State of Mysore is the second State in India as regards both revenue and population though she is fourth in point of area. Mysore is situated in the Deccan, surrounded on all sides by the Madras Presidency except on the North and North-West, where it is bounded by districts of Dharwar and North Kanara respectively and towards the South-West by Coorg. Part of it lies in the Western Ghats and is known as Malnad (the hill tract) and the rest is called the Maidan (plain),

which is part of a plateau over 1,000 feet high. The State covers an area of 29,528 square miles, with a population of 5,978,892 of whom 5,481,759 are Hindus, 340,461 Moslems and 71,395 Christians, and a revenue of 3,46,37,000 rupees. The mother tongue of the people is Kannada.

The history of Mysore goes back to pre-historic times, but the present ruling dynasty is connected with the State from the end of the 14th century. Mysore became independent after the downfall of Vizayanagar in 1565. However, in the 18th century the real sovereignty passed into the hands of Hyder Ali and then his son, Tippu Sultan. In 1799, on the fall of Saringapatam, the British restored the State—with its present limits—to the ancient dynasty. The management was taken over by the British Government in 1831 owing to the outbreak of insurrections in some parts of the State. In 1881, the State was again restored on certain specified conditions. In 1894, the present ruler, Colonel His Highness Maharaja *Sir* Sri Krishnaraja Wadiyar Bahadur, G.C.S.I., G.B.E., succeeded to the *gadi* though he was invested with full powers in 1902.

The relations between the State and the British Government are now regulated by the treaty of 1913, which replaced the Instrument of Transfer of 1881.

His Highness the Maharaja is the ultimate authority in the State, and the administration is carried on under his control by an Executive Council,

consisting of the Dewan and three members of the Council. The highest judicial tribunal is the Chief Court, consisting of a Chief Judge and three puisne judges and there is a system of lower courts on the model of British India.

The administration is conducted on modern lines; all the important branches are controlled by separate Heads of Departments. Mysore maintains an efficient military force, the strength of which was 2,268 in 1927-28 and on which it spent about 18 lakhs a year. The cost of police administration in 1927-28 was about 16 lakhs. There are up-to-date departments of Agriculture, Industries and Commerce, Public Works, Education, etc.

The State has encouraged the agricultural and industrial development by establishing experimental and demonstration farms, supplying pure seed, popularising scientific methods, encouraging the establishment of co-operative societies, starting pioneer factories, subsidising industries, supplying technical experts and information, constructing huge irrigation and electric works. Gold mining and silk are the most important industries. The State has established a University with a number of colleges and maintains a net work of technical and general schools and institutions. It spends over 46 lakhs a year on education. Over 57% of the boys and 15% of the girls of school going age are in school.

As early as 1881 Mysore had established a Representative Assembly whose powers and



constitution have been revised from time to time. Under the scheme of constitutional development of 1923, the Assembly has been put on a statutory basis.

The Assembly consists of 200 members all of whom are non-officials, though there are some who are nominated to represent minorities and special interests. The vast majority of the members are elected, and there is now no sex discrimination in the franchise system. The Assembly is presided over by the Dewan.

The Assembly is largely a consultative body. It has the right of

- (1) making representations about wants and grievances of the people;
- (2) putting interpellations;
- (3) discussing the budget and moving resolutions on its underlying principles and on matters of public administration;
- and (4) being consulted on all proposals for the levy of new taxes and on the general principles of all measures of legislation before they are introduced in the Legislative Council.

Besides the Representative Assembly there is a smaller Legislative Council consisting of from 40 to 50 members. Its present composition is as follows :—

- (1) Dewan, who is the presiding officer;
- (2) 20 nominated officials;
- (3) 7 nominated non-officials;
- (4) 22 elected non-officials, of whom 2

represent the two municipalities and 8 the various districts, 8 are sent by the Assembly and one each by the Commercial Community, Indian Christians, European Planters, and Indian Planters. Besides having the powers which the Assembly possesses, the Council has the right of voting on the demands for grants and has a Public Accounts Committee which examines all audit and appropriation reports and brings to the notice of the Council all deviations from the decisions of the Council. The Government, however, has the power of restoring grants reduced or rejected by the Council.

The State has also established a net work of local self-governing institutions. There are two city municipalities, 37 town and 67 minor municipalities. Each district has a Board and many villages have now village Panchayats. The Scheme of 1923, it will easily be seen, is based on the Government of India Act 1919.

The Ruler has like the Governor-General powers of certification and of issuing emergency legislation. The present Maharaja enjoys a reputation for purity and austerity of character, for generous and large-hearted benevolence, and for acting, in general, constitutionally and public spiritedly. Even those who are agitating for further reforms and are strong critics of the Government concede that "the present Ruler has for long governed with tact and skill and has not like his compeers elsewhere, flagrantly abused the dictatorial powers vesting in him....."

Mysore thus is a modern and progressive State which has tried to keep pace with British India even in respect of constitutional development. There are hardly half-a-dozen States that are maintaining the standard thus set up by Mysore. But even here things are not as they might be. "There is no freedom of press, of association or speech, and deportations, expropriations and forfeitures of property can be inflicted on any one without even the semblance of a judicial enquiry and by the executive fiat alone." The general conditions are described in the following manner by Mr. Hosakoppa Krishna Rao, an elected member of the Mysore Representative Assembly :—

"Taxation is very high and revisions of land revenue assessments are too frequent and are subject to no statutory limitation. Excise revenue is going up by leaps and bounds. The indebtedness of the ryots is appalling and improvement of lands and agricultural enterprise are at a standstill. Despair is writ large on the brows of the toilers in the fields. Labour is yet an unrecognised element and its claims to protection are ignored. The civil administration is top heavy and quite an army of fat salaried officers and reserve men, wholly out of proportion to the work to be turned out, are being maintained at the cost of the over-burdened ryots .....". "The lower ranks of the public service are underpaid and the majority are not in receipt of a living wage. Consequently corruption, inaptitude and discontent are on the increase among them. Government as conducted to-day has no initiative, no desire and no conviction that it has anything to do in particular. ... It spends more money but little energy."

On the whole, however, it appears to me, that

conditions in Mysore and some half-a-dozen other States are not essentially different from those that prevail in British India. But this cannot be said about the other States, for example, of the States in Rajputana with the possible exception of Bikaner, which is an advanced State of the modern type, with an efficient and benevolent, though, perhaps, not constitutional, Ruler at the head. The State of Kotah too appears to be better administered than the other States in Rajputana.

(2) Rajputana is bounded on the west by Sind, on the north-west by Bahawalpur, on the north and north-east by the Punjab, on the east by the United Provinces and Gwalior, while the southern boundary runs across the central region of India in an irregular zig-zag line. "The Aravalli Hills intersect the country almost from end to end. The tract to the north-west of the hills is as a whole, sandy, ill-watered and unproductive, but improves gradually from being a mere desert in the far west to comparatively fertile lands to the north-east. To the south-east on the Aravalli Hills lie higher and more fertile regions which contain extensive hill ranges and which are traversed by considerable rivers."

There are 21 States in all in the Rajputana Agency, out of which two are Jat, one Mohamadan and the remaining 18 Rajput States. They cover a total area of 128,892 square miles with a population of 9,840,778 souls, and a total revenue of 6,25,74,000 rupees.

The history of some of the States goes back to

pre-historic times. The Maharana of Udaipur (Mewar) claims, like the Emperor of Japan, to be descended from the sun, and is now the representative of the oldest ruling dynasty in India. The State of Udaipur was founded in about 646 A.D. In the middle ages Rajputana was regarded as the land of heroes and heroines, of romance and chivalry. The stories of Rajput bravery and chivalry, of their daring deeds and unconquerable spirit fill many a page of medieval Indian history. By 1818, the Rajputana States had accepted the position of subordinate co-operation with the East India Company. At present a political officer, called the Agent to the Governor-General for Rajputana States Agency, is stationed at Ajmer—which is a British district in the midst of the States, a small red enclave in a big block of yellow—who supervises the relations between the States and the British Government of India.

The system of administration in all the 21 States is hereditary despotism, and no State—except Bikaner—has a legislative council. /“The will of the ruler and his executive is law. No distinction is made between executive orders and legislation’ ..... A circular or an order issued under the signature of the Maharaja or his Secretary treats a certain act as an offence, determines punishment for the same and empowers any body, judicial or otherwise, to exercise that power. Executive orders are issued taking away certain powers from civil and

criminal courts and entrusting them to executive officer."

"There is no law in any state of Rajputana guaranteeing to the citizen, liberty of speech, liberty of the press, liberty of association and security of person and property.....Public meetings of a political nature and public organs dealing with politics are things unknown in Rajputana. Instances of arbitrary expulsion or confinement, proscription of newspapers and confiscation of property are not very rare. In a majority of the States, there are serious statutory restrictions on these elementary rights of humanity. But more potent than anything else to gag personal freedom is the atmosphere of general intimidation and indirect official pressure obtaining in the States."

"Local self-government of a tangible character is non-existent. Municipalities there are in most of the capital towns and a few others, but they are almost all official or nominated bodies..... There are no local boards in any of the States in Rajputana ..... There are no village Panchayats except in Kotah and Bikaner....."

Slavery still exists in the Rajputana States. The number of slaves is estimated at 161,735. They are found in the palace of every Rajput prince, jagirdar or feudatory. They "are openly exchanged as presents and articles of dowry and at times even sold though secretly....." Their masters "have absolute authority over their persons and chastity, and regulate their marriages and

divorces to suit their own convenience. Personal violence and outrages on modesty are not an uncommon fate of these unfortunate beings."

The system of *Begar* still prevails in most of the States. The depressed classes, who form about 18% of the population, cannot escape this enforced labour for which they are paid nominally, sometimes in cash and sometimes in food. But the payment "is always inadequate in theory and often denied in practice." "*Begar* is exacted in the acutest form and attended with the greatest hardship to its victims on the occasions of Viceregal visits in the States...."

"Over a million persons, including Gujars who are cattle lifters are doomed to be criminals from the cradle to the grave."

"Factory labour is very scarce in Rajputana but the little that there is," is very badly off. In the 224 industries, only 19,175 persons are employed, out of whom 895 are women and 1,021 are children under 14. The hours of daily work range from 12 to 15. "There is no factory law. There are no provisions for education, old age pensions, compensations and maternity benefit for workers."

About 87% of the population is engaged in agriculture but owing to the poverty of the soil, lack of general irrigation facilities and subsidiary occupations the peasantry is in a chronic state of scarcity and famine. "To add to the cruelty of the situation, the assessment of revenue is heavy.....Few states have any revenue code. Assessment can be

and is renewed and increased at the sweet will of the powers that be. Nor is land revenue the only state call upon the slender purse of the cultivator. There are a number of additional cesses, which sometimes present amusing and ingenious methods of exploitation. For example, in the Jodhpur State, the number of such cesses reaches up-to a hundred. Except Kotah [and Bikaner] no state has established co-operative credit societies or agricultural banks. The consequence is that the peasantry is heavily indebted to usurers. Chronic poverty, want of sanitation and medical relief, ignorance and disease have conspired to reduce his vitality to its minimum .....

“Education is most backward in the Rajputana states. The percentage of literacy, as a whole, is little over three but literacy among women is less than 2 per cent. Provision for imparting primary education is very inadequate. There is one school for 7,011 persons or 31 square miles or 17 villages in Alwar; for 12,116 persons or 230 square miles or 27 villages in Jodhpur; and for 10,307 persons or 364 square miles or 33 villages in Bikaner. The ratio of expenditure on education and royalty to the total revenue is.....illuminating. Let us take the professedly advanced states :—

States.		Expenditure on Royalty.	Expenditure on Education.
Bikaner	...	11 per cent.	1·5 per cent.
Jodhpur	...	16 per cent.	3 per cent.
Alwar	...	50 per cent.	1 per cent.”



Other conditions especially in the villages are deplorable. "There are no roads, no sanitary arrangements, no hospitals or dispensaries, and no provision for lighting in the villages in any of the Rajputana States. People die in thousands for want of medical help. Expenditure on medical relief in Jodhpur, Alwar and Bikaner is 2.25%, 3% and 1.4% of the revenue respectively. The condition of women in Rajputana is also not very enviable. Over 41 % of the total number of married women are widows. "Polygamy is prevalent among the ruling classes and there is hardly a Maharaja and few Jagirdars content with a single wife or woman. The late Maharaja of Jaipur had more than 3,000 women in his palace....."

(NOTE:—This and other quotations in this section are taken from Mr. Ramnarayan Chaudhary's article "Rajputana to-day" published in the Modern Review, Calcutta, of December, 1928. For further details, please refer to it and Mr Pathik's book entitled:—"What are Indian States?")

The conditions in most of the Rajputana States are, thus, far from satisfactory. The Rulers are despotic and not very mindful of the interests and welfare of their subjects. Administrative machinery is antiquated, out of sympathy and out of touch with the needs of the people. A thorough overhauling and a change of spirit are needed to improve matters.

From the descriptions of the two types of states it will be clear that although there are many states that are still backward there are some which are

progressive. They have tried to move with the times and have introduced reforms. The attempts at reform have been thus summed up by the Butler Committee:—

“Thirty Princes have established legislative councils, most of which are at present of a consultative nature only; 40 have constituted High Courts more or less on British Indian models; 34 have separated executive from judicial functions; 56 have a fixed privy purse; 46 have started a regular graded civil list of officials; and 54 have pension or provident fund schemes. Some of these reforms are still no-doubt inchoate, or on paper, and some states are still backward, but a sense of responsibility to their people is spreading among all the states and growing year by year. A new spirit is abroad. Conditions have very largely changed in the last twenty years.”

Things are no doubt changing in the Indian States but the rate of progress in the vast majority of them is hopelessly slow and the people of the states are showing signs of impatience. They have begun to agitate for reforms and the movement, which is still in its infancy, is gathering strength yearly. They have exposed the unreality and hollowness of the reforms that have been introduced in some of the states, and are challenging the Princes to produce evidence in support of their magniloquent claims. Awakening has come to the people and iron has entered their soul and they are not likely to rest until constitutional rule is established in the states. If the

Princes are wise they will hasten the rate of progress, modernise their administration and establish responsible institutions. In any case, the future of the Indian Princes is bound up with the establishment of constitutional rule in the States.

#### IV

The problem, however, which is agitating the minds of the Indian Princes to-day is not so much the question of internal reforms but that of the future relations with British India; and it is this that forms the subject matter of the present study. But, before discussing the problem of future relationship, it appears to me desirable to give a short sketch of the history of British connection with the States and to state clearly and succinctly the present position.

As stated by Mr. Panikkar, the problem of Indian States has been with us since the beginning of Indian history. The old Hindu empires included portions that were not under the direct rule of the Emperor but were administered by local rulers or *Samantas*, under his suzerainty. The same was true of the Mughal Empire. Hindu kingdoms were allowed to continue if they recognised the sovereignty and superior authority of the Emperor at Delhi. Relations were put on a definite basis in the reign of the great Emperor Akbar. The Emperor "exacted obeisance.....punished disloyalty, rewarded the faithful and gave titles of distinction." He "exercised the right of wardship, succession and deposition." The Rajas "enjoyed ruling rights" but

“their claim to royalty was not recognised, and in relation to the Padshas they were only subjects like the rest.” But all this changed at the break up of the Mughal Empire. The local rulers became virtually independent. The provincial governors and others carved out kingdoms for themselves and their descendants and though they still rendered nominal allegiance to the throne of Delhi they were *de facto* sovereigns. The East India Company was also in the same position. It had by this time acquired a strong foothold in the country and although by obtaining the grant of Diwani the Company had accepted the suzerainty of the Mughal Emperor, it was virtually independent. It was waiting patiently for its opportunity and watching the game which the French were playing with the various Indian powers and itself.

It is not necessary to describe here the various stages by which the East India Company established its supremacy over the whole of India; it is enough to state that its relations with the Indian States varied from time to time according to its position and importance.

The Company's policy towards the States has been divided into two main periods:—

(1) From 1757 to 1813 and (2) from 1813 to 1857. In the first period the Company followed generally the policy of non-intervention and limited liability and in the second period that of subordinate isolation. But in each period the policy was departed from by individual Governors-General—by Lord

Wellesley in the first period and by Lord Dalhousie in the second period.

(1) *The first period (1757-1813)*:—Sir William Lee-Warner has pointed out that during the first period "the British endeavoured, as far as possible, to live within a ring-fence," and beyond it "they avoided intercourse with the chiefs." However, it is true that Lord Wellesley foresaw the need for a change, and during his term of office (1798-1805) he advanced beyond the ring-fence, formed alliances with some of the Rajput States, and introduced phrases of 'obedience' as well as alliance into his treaties, as for instance with Datia." But his successors again reverted to the policy of non-intervention and avoiding entangling alliances till the coming of Lord Hastings in 1813, from which time the policy of subordinate isolation was regularly followed. During this period, especially in the first 40 years, the Company was only one of the important powers in India, in no way superior to the others, such as the French, the Mahrattas, the Nizam and the Sultans of Mysore. And, thus, the treaties that were concluded then were those of offensive and defensive alliance for the purpose of balancing political power. They were among "equal" and "independent" states and "the terms and forms of negotiation were reciprocal." One example will suffice to illustrate the point:—The Triple Alliance with the Peshwa and the Nizam against Tipu Sultan, dated the 1st of June, 1790, provided that a representative of each signatory was to reside in the army of the other, and

“the representations of the contracting parties to each other shall be duly attended to.” Peace whenever deemed advisable “shall be made by mutual consent” and due attention was to be paid “to the wishes and conveniences of the parties” at the time of apportioning acquisitions. It is thus clear that the three parties were on a footing of absolute equality and there was no question of recognising the superiority or suzerainty of the British:

Things, however, were gradually changing. The British were slowly demonstrating their superiority and Lord Wellesley was able to force subsidiary alliances on several Indian States, viz., Oudh, Hyderabad, Poona, Baroda, Gwalior and temporarily the Rajputana States. The policy of extending British influence “without enlarging its circle of defence” was laid down by Warren Hastings, the first Governor-General of British India, but it took time for the British to evolve the system of subsidiary alliances. This was a clever device adopted definitely by Lord Wellesley of pushing the defence frontier to the extreme boundary of the next state and of shifting the main cost of defence to the shoulders of the neighbouring chief. The Company agreed to assist the ruler of the state with “a part or whole of their forces” but the extraordinary expenses were to be defrayed by him. This policy has been picturesquely “described by Lord Salisbury as that of defending the moon in order to ward off an attack on the Earth from Mars.”

A treaty of subsidiary alliance generally required the prince—

- (1) to surrender his "rights of negotiating with foreign nations and with states in alliance with the Company" though not necessarily with all Indian States;
- (2) to exclude from his service all Europeans especially the French;
- (3) to entertain within his territory a subsidiary force under the control of the Company;

and (4) to cede territory to the Company by way of payment for the subsidiary force.

"With the internal sovereignty of the States, except under special circumstances as in Kutch, the Company not only did not pretend to have, but it formally disavowed, any manner of concern." (Lee-Warner). In spite, however, of this provision of non-intervention in the treaties the system of subsidiary alliances inevitably led to interference by the British in the internal affairs of the States. This was anticipated by Arthur Wellesley, brother of Marquis Wellesley, who was fully conscious of the various defects of the system of subsidiary alliances. The policy of Wellesley was reversed by his immediate successors Barlow and Cornwallis and as pointed out by Mr. Panikkar "the interlude (till 1813) was one in which some of Wellesley's treaties were dissolved and further commitments refused." There are, however, important exceptions, as in the case of the Cis-Sutlej States of Patiala, Nabha and Jind, which

were taken under British protection during the Governor-Generalship of Lord Minto.

(2) *The second period—(1813-1857):—*By 1813, "there was only one strong power in India, that of the British Company which had triumphed over its European rivals and scattered its native enemies." No longer did the Company stand in need of the help of the States and under Earl Moira, later known as Marquis of Hastings, it adopted a policy of subordinate isolation with the states, and gave up "the empty professions of non-interference which Parliament had preached and the logic of hard facts had contradicted. This policy lasted until the Mutiny, and it included the period during which Lord Dalhousie gave effect to the doctrine of lapse by annexing 'dependent' Native States on the failure of male heirs to their Hindu rulers."

The policy of the Marquis of Hastings went very much further than that of Lord Wellesley. The keynote of Lord Hastings' policy was isolation; and the treaties made by him with the Indian States clearly asserted the sovereignty of the British, the complete subordination of the princes, and in return for British protection absolute prohibition of any connection with other chiefs. For illustration, I may quote here the main provisions of the treaty with Udaipur, which was concluded on January 13, 1818 and which is typical of the treaties of this period:—Article I. declares "perpetual friendship, alliance and unity of interest." By Article 2, "the British government engages to protect the principality and



territory of Oudeypore." Article 3 lays it down that "the Maharana of Oudeypore will always act in subordinate co-operation with the British government and acknowledges its supremacy and will not have any connection with other Chiefs or States." Article 4 reiterates the prohibition exempting "amicable correspondence with friends and relations." Article 5 requires the Maharana not to "commit aggression on any one" and to submit all disputes "to the arbitration and award of the British government." Article 6 prescribes the amount of tribute to be paid to the British government, one-fourth of the revenue for the first five years and "three-eighths in perpetuity." Article 7 promises British support in connection with the recovery of lost territory to the State on the condition of receiving three-eighth of the revenue in perpetuity. Article 8 stipulates that "the troops of the State of Oudeypore shall be furnished according to its means, at the requisition of the British Government." Article 9 promises that "British jurisdiction shall not be introduced into that principality" though it does not say anything about non-intervention in internal affairs as the treaties of Lord Wellesley had invariably done. By means of such treaties Lord Hastings brought the whole of Rajputana under British suzerainty.

As pointed out by Sir William Lee-Warner, Lord Hastings considered "that it was the duty of the paramount power to make a political settlement in the distracted areas of native territory and not to leave India to stew in its own juice."

Consequently, he tried to bring Central India and Kathiawad areas, which had been left by his predecessors under the suzerainty of the various Mahratta chiefs, under British sovereignty. This he did, not by means of separate treaties with the feudatory chiefs, but by general political settlement. With the exception of three states, Orchha, Datia and Samthar, which are bound by formal treaties, all the other 142 states in Central India were protected and preserved by sanads, grants and *ikrarnamas*. As to the Kathiawad states they were brought under British authority not by "treaty with those states directly but . . . . (by) agreement concluded with the Gaekwar." The agreement states:—"With a view to promoting prosperity, peace and safety of the country and in order that the Gaekwar's government shall receive without trouble and with facility the amount of tribute due to it from the provinces of Kathiawar and Maheekanta it has been arranged with the British Government that His Highness Sayaji Rao Gaekwar shall not send his troops into the districts belonging to the Zamindars of both the provinces without the consent of Company's Government; and shall not prefer any claims against the zamindars or others in those provinces except through the arbitration of Company's Government." In this way the Company succeeded to the position of the Gaekwar and the Peshwa in Kathiawad. Soon after the signing of the agreement the British entered into engagements with the chiefs, who had enjoyed no sovereign rights but possessed special

rights and privileges akin to those of feudal lords. These engagements are generally of one pattern. As stated by Mr. Panikkar, "they declare that the territory was received by cession from the Peshwa and annexed to the British dominions, but that the states of the chiefs are continued to them out of motives of justice, benevolence and good faith; they bind the chiefs to implicit submission, loyalty and attachment to the British Government. They are liable to such control as the British Government may see fit to exercise and the rights and powers of the chiefs are limited to those that have been expressly conferred."

After Lord Hastings, similar engagements as those entered into with the Central India and Kathiawad states, were made with the minor states of the Punjab, Chamba, Veanda and Suket.

Lord Hastings thus brought three blocks of states—20 in Rajputana, 145 in Central India, 145 in Kathiawad—under the Suzerainty of the British, and enunciated a policy of complete subordination and isolation. He was, however, against annexation and in favour of the preservation of the states. His successors, on the other hand, were believers in the policy of annexations and added Sind, Punjab, Oudh and several other small states to British dominion. Lord Dalhousie was of opinion that Lord Hastings had been wrong in propping up minor principalities and that the only way of preventing misrule in the states was to annex them. He evolved the theory of constructive feudalism and

enunciated the famous doctrine of lapse and escheat, through which he annexed Satara, Nagpur, Tanjore, Jaitpur and Jhansi. Oudh was annexed on the plea of gross misrule but the manner in which this was done has been condemned severely by historians and was responsible to no small extent for the deep-seated unrest which resulted in the Sepoy Mutiny.

The two policies of annexation and of subsidiary alliance must share the blame to a large extent for creating conditions which led to the Revolt of 1857. The system of subsidiary alliances proved very disastrous to Indian rule. It completely broke down. There was anarchy in many states. The case of Oudh, though most notorious, does not stand alone; there were others which were equally bad, as for instance Hyderabad, Gwalior, Indore, Baroda, Travancore, Cochin, Mysore. The courts had become "the theatre of most degraded debauchery and the most horrible misgovernment." All incentives to good government and all checks to arbitrary rule had disappeared. The subsidiary system had—to use the words of Wellington—"paralysed the native ruler and made him dependent entirely on British support." As was pointed out by the leader writer of *the Times* in 1853 (quoted by Mr. Panikkar) "Britain's hand of iron maintained the princes on the throne, despite their imbecility, their vices and their crimes. The result is, in most of the states, a chronic anarchy, under which the revenues of the states are dissipated between the

mercenaries of the camp and the minions of the court." Many of the states were seething with discontent and in several of them there were actual revolts. On top of this came the annexations of Lord Dalhousie. Conditions were thus ripe for the revolt of 1857, which was ultimately suppressed with the help of several Princes who remained loyal and true to their connection with the British.

## V

With the passage of the Government of India Act 1858 and the transfer of the government of British India to the Crown a new chapter opens in the history of British relations with the Indian States which has not been closed as yet but which the Princes and the British are anxious to close as soon as possible. With the suppression of the mutiny the British became supreme in India both in theory and in fact. As Lord Canning wrote in 1860: "The last vestiges of the royal house at Delhi, from which we had long been content to accept a vicarious authority, have been swept away. The Crown of England stands forth the unquestioned ruler and paramount in all India and is brought face to face with its feudatories, and that there was a reality in the suzerainty of England which never existed before and which was eagerly acknowledged by the Chiefs." Lord Canning went further and declared that "the territories under the suzerainty of the Crown became at once as important and as integral

a part of India as territories under its direct dominion. Together they form one care, and the political system that the Mughals had not completed, and the Mahrattas never contemplated, is now an established fact of history."

However, to resume the narration of the history of British relationship with the Indian States, the policy of British Government underwent a definite change after the mutiny. The policy of annexation—"of abandoning no just and honourable accession of territory or revenue"—and of treating "independent" and "dependent" states differently according to their status, was given up, and in its place the policy of treating all the states alike as "feudatory" and "dependent," preserving the territories to their rulers but asserting the right of intervention to ensure minimum of good government and for Indian and Imperial purposes, was inaugurated. The Crown began its direct rule over India by announcing its determination to preserve the rights of Indian Princes and to maintain the engagements and treaties entered into between the States and the East India Company. In order to make the assurance more definite Sanads of adoption were issued to 160 states, which recognised the succession according to the laws and customs of the land and assured "that nothing shall disturb the engagement . . . . so long as your House is loyal to the Crown, and faithful to the conditions of the treaties, grants and engagements which record its obligations to the British Government." Before granting

these Sanads Lord Canning had made clear that they "will not debar the Government of India from stepping in to set right such serious abuses in a Native Government as may threaten any part of the country with anarchy or disturbance, nor from assuming temporary charge of a Native State when there will be sufficient reason to do so..... Neither will the assurance diminish our right to visit a State with the highest penalties, even confiscation, in the event of disloyalty or flagrant breach of engagement."

A new policy was thus initiated by Lord Canning by which the States were brought into subordinate union with the Government of India. The states were assured continued existence, but were reduced to a position of dependence and subordination and the Government of India was given the right of intervention and to inflict punishment on the ruler—even to the extent of deposition and confiscation of the State.

From the beginning of the establishment of direct rule the "feudatory" and "dependent" position of the Indian Princes was emphasised and a theory was adumbrated that the British Crown had succeeded to the rights of the Mughal Emperors of India in addition to those acquired by treaties, engagements and position of supremacy in the country. { Additional force was given to it by the assumption in 1876 of the title of *Kaiser-i-Hind* by the Queen soon after the death of the last

Emperor of Delhi, Bahadur Shah. The rulers of some of the bigger states protested against the lowering of their status and dignity but they had to bow before the majesty of British power and to eat the humble pie. They were forced to attend the Imperial Durbar at Delhi and to swear perpetual allegiance to the British Crown, and to forego their claim to be treated according to treaties and engagements previously entered into with the East India Company. The succeeding Viceroys, especially Lords Curzon, Hardinge and Reading, continued to emphasise the subordinate position of the Indian Princes and the allegiance owed by them to the British Crown and there have been many Princes also who have repeated from time to time with considerable fervour their pledges of loyalty to the Crown.

Since 1858 the British have followed the policy of the preservation of the Indian States and although there have been cases of temporary transfer or rule by British officers in the states no state has been annexed to British India. On the other hand, the British have created a new State of Benares by conferring the rights of a ruling chief on the Maharaja of Benares in April, 1911. However, the British have tried to consolidate their power and to draw the States and British India closer by entering into new engagements and arrangements with the Princes. "Omitting 160 Sanads of adoption given by the first Viceroy, to which Lord Landsdowne added 17 in 1890, most of the engagements of the



past fifty years (written in 1910) deal with matters of internal sovereignty, in regard to which the protected allies have joined hands with the British Government in promoting the common welfare of the Empire. Some of the instruments testify to the loyal assistance rendered by the states of Hyderabad, Nepal, Gwalior, Bhopal, Patiala, Jind, Nabha, Rampur and Bikaner during the stress of the rebellion. But the bulk of Indian engagements concern mutual arrangements for the repression of smuggling, the freedom of trade, the construction of railways, telegraphs and canals, the extension of postal system or the protection of mails, the cession of the lands for sanatoria or civil stations, the preservation of forests, the extradition of criminals, and jurisdiction or the recognition of legal acts." By these arrangements the whole of India has been knit up into a single unit for many purposes. In this connection, it may also be noted that as many as 29 states maintain what were called before the war "Imperial Service Troops" and are now termed "Indian State Forces" which are organised on the same basis as the British Indian army, so that when they are placed at the disposal of the British authorities in times of emergency they can effectively co-operate with the British Indian units. For this purpose, the British Government provides "permanently a staff of British officers, termed 'Military Advisers and Assistant Military Advisers' to assist and advise the Ruling Princes in organising and training the troops of their states." The actual

strength of the Indian State Forces was 27,030 in October, 1923.

## VI.

The spirit of co-operation reached the highest point at the time of the Great War, 1914-18. The Indian Princes vied with one another in helping British Government with men and money. Several Indian Princes went in person with their armies to the aid of Britain in the various theatres of war. The response made by the Indian Princes to British appeal created a new atmosphere in England and when invitations were issued to Dominions and India to send representatives to the Imperial War Conference and the Imperial War Cabinet the Princes were not forgotten. The Government of India nominated a Prince along with an Indian Politician and the Secretary of State for India to represent India on all Imperial organisations during the War. And when the British Empire Delegation was organised at the end of the War to negotiate and sign peace an Indian Prince was included, who signed the peace treaty on behalf of India. Since the War all delegations from India to the Imperial Conferences and to the League of Nations have included a Prince, who is nominated for the purpose by the Government of India.

## VII.

Thus, although the status of the Princes has been improved by the inclusion of a Prince in Indian

delegations to Imperial and International conferences and assemblies the British Government has continued to treat them as "dependents" within the country and have pushed on a policy of intervention in the internal affairs of the states. The British Government has enunciated the claim that the Crown is the supreme authority in India—both British India and the Indian States—and that its paramountcy is not limited by any contracts, treaties, sanads, engagements or arrangements. To what extent is this contention correct will be discussed later. Here it is only necessary to describe and discuss the incidents which have necessitated British intervention and to state the present position of relationship succinctly and clearly.

(1) The relations of the states with foreign powers are conducted by the Paramount Power and the rulers of the states are not entitled to deal directly with any outside power or with the subjects of foreign states. Even trade negotiations are conducted through the British Government and the states are not entitled to receive consular agents in their territories. They have also agreed not to employ Europeans without the consent of the British Government, and have parted with their jurisdiction over them. Rights of foreigners in State territories are secured by the Paramount Power which undertakes to fulfil all international obligations on behalf of the states. All foreign interests of the states, including the extradition of a criminal, are secured through the British Government of India. Even

passports to State-subjects for travel or study or business abroad are issued by the British Government. The Rulers of the States cannot accept, without the consent of the Paramount Power, any title, honour or salute from any foreign court or foreign body.

(2) Similarly, dealings between one state and another are conducted by the British Government. "If a boundary question is to be adjusted, an amicable arrangement made for the mutual surrender of criminals, or joint action taken to complete a line of railway or canal that passes from State to State, the British Government must arrange the business and its arrangements must be binding upon the parties concerned. Aggressions and breach of engagements must be punished by the Suzerain." (P. 85 Imperial Gazetteer Vol. IV). This policy of segregating the States was originally evolved to frustrate any effort at combination against the British Government, and as the might of the British has been growing in India and the fear of such concerted action has been steadily decreasing, there has been relaxation of restrictions on the intercourse between the Rulers of Indian States in actual practice. The Princes have now several opportunities of meeting together, especially, at the time of the sittings of the Chamber of Princes, and of taking concerted action for meeting common needs or common grievances.

(3) The Paramount Power has undertaken to defend the states from external aggression and even

from internal disorder if need be; but still many of the states maintain armies for either police purposes, for personal display or for co-operation with the Imperial Government. But to fulfil its engagements the Paramount Power has imposed restrictions and conditions on the states. To begin with the state forces are limited as to numbers, armament and equipment. "Posts in the interior must not be fortified, factories for the production of guns and ammunition must not be constructed, nor may subjects of other states be enlisted in the local forces." Secondly, the states have undertaken to obtain local supplies for British forces, whenever necessary, to allow them to occupy cantonments or positions and to arrest deserters, and to recognise control by the Government of British India over railways, telegraphs and postal communications in the interest of military defence. Thirdly, the states are expected—and even required—to help the British Government in times of emergency. For this purpose, as already pointed out, a number of states maintain now Indian State Forces or what were previously called, Imperial Service Troops, organised, trained, equipped etc., on the same basis as units in the British Indian Army.

(4) The Paramount Power has, by virtue of its sovereign position, asserted a claim to certain rights, which have been "called feudal, for lack of a more exact term" as Mr. Panikkar puts it. "They involve the right to settle succession, constitute regency, decree deposition, assume wardship

(including education).....recognise, limit and grant titles and permit adoption." These rights were exercised before 1858 in the case of "dependent states" but their application has been extended to all states since the transfer of the Government of India to the Crown. Without entering into historical details the present position in each case may be stated here :—

(a) The right of adoption before 1858 was given only in exceptional cases, "as a special matter of favour and approbation" as the policy was one of annexation, wherever possible, but since that date, the right of adoption has been granted to all Hindu Rulers, who have exercised it freely. In no case has the right been refused and the adopted son has succeeded as a matter of course to the *gadi* in case of failure of natural heirs. But this right does not extend to a widow or deposed ruler and is confined to the Ruler himself, as long as he is in actual possession of the *gadi*.

(b) The position in respect to succession is more complicated. To begin with it is obvious that natural heirs must possess the right to succession, but even in their case the Paramount Power has claimed the power to *recognise* if not to *regulate* it; and one can easily imagine cases, where it may be necessary for the Paramount Power to withhold recognition, as in the case of madness, proved incapacity and disloyalty of the heir-apparent. But the claim of the British Government goes beyond mere recognition or the right of veto. The Secretary

of State for India declared in his Dispatch of July 24th, 1891, that "it is admittedly the right and duty of Government to settle successions in the Protected States of India generally." This was written in connection with the famous Manipur Case.

This claim, however, has been disputed by the bigger states; and no genuine case has yet arisen to test its validity. Secondly, it is now recognised by the states that the Suzerain Power possesses the right to settle all disputed successions. If a ruler dies without natural heirs or adoption, the British Government has the right to step in to settle the succession. Thirdly, the Paramount Power has the right and duty of enforcing the local customs and usages in matters of succession which vary a good deal in different parts of the country. And lastly, the British Government appears to possess the right of preventing the ruler from overriding the claims of just claimants, as it happened in the case of Kashmir, when the late Maharaja tried to override the claims of Maharaja Hari Singh and pass on the *gadi* to his adopted son, the Prince of Punch. The British Government also exercised this right in recognising the Nawab Sikandar Muhammad Hamidulla Khan as successor to the Begum of Bhopal in 1926.

(c) The British Government has been exercising the right of constituting regencies both during the minority of a Prince and also when for some reason the Ruler of a State is temporarily suspended or is permanently separated from the administration of the State. This the British did in the case of Alwar

in 1870, when the Maharaja was practically deposed on a charge of maladministration. It was done in the case of Bharatpur very recently. The right to constitute regencies has been exercised in case of all states—including the treaty states; although the latter have protested against this practice and the Chamber of Princes have asked the British Government to lay down precise rules in this connection. But nothing definite has yet been done.

(d) The Suzerain Power has also asserted the right of wardship over minor Princes including the right to control their education; but it has also made provision for the education of the sons of ruling and other noble families by organising special institutions for the purpose. The Princes, however, are not satisfied with the existing arrangements and the question was brought before the Chamber of Princes at its last sitting at Delhi, when a strong committee was appointed to suggest methods of improvement. However, the Princes have resented the remarks of Lord Curzon in this connection, who held that it was the duty of the British Government to satisfy itself "that the young chief has received the education and the training.....that will qualify him to rule" before he is invested with powers to administer the State.

(e) The Paramount Power also claims the right to control the use and grant of all titles, honours, salutes and matters of precedence. In the first instance, the *Kharita* granted by the Viceroy enumerates in full all titles and honours that can be



used before or after the name of the Prince and any additions must be sanctioned by the Government of India. Secondly, the Princes cannot accept foreign titles without the consent of the British Government. Thirdly, a Ruling Chief cannot confer any titles he likes on his own or British subjects. The right is generally limited to titles which are not conferred by the British Government. Fourthly, the Suzerain Power itself confers titles, honours and salutes on the rulers and expresses its pleasure or displeasure by granting or withholding and even suspending temporarily or permanently titles, honours and salutes. The table of salutes which was first prepared in 1857 and published in 1864 has been modified from time to time but is considered of considerable importance. It indicates the status of the Prince and has been used as an instrument of punishment and reward in the case of several Princes.

(f) Lastly, the British Government has asserted and exercised the right of deposing Princes or forcing them to abdicate in certain circumstances. This right is fully recognised in the case of states which were called "dependent" before the mutiny and which were really created by the British, as for instance, Mysore, in whose case the Maharaja was deposed in 1831, on the ground of gross maladministration. But it is contended that in the case of "states which have not originated in grant, but were already in existence when the British first came into treaty relations with them," as for instance, Baroda,

Indore, Gwalior, Udaipur, the British Government cannot claim any such right. "Every State having its own independent existence retained whatever powers of sovereignty it did not give away to the Crown. The whole of the "residuary jurisdiction" remained *ex necessitate* vested in it" (p. 82 *The British Crown and the Indian Princes*—by the Directorate of the Chamber's Special Organisation.) The theories of the "residuary jurisdiction" of the Princes and of the "unlimited paramountcy" of the Crown will be examined in detail in the body of the book. Here, it will be sufficient to state that even in the case of the treaty states the Paramount Power has the right of deposing the ruler and taking action against him in cases of proved disloyalty and breach of inter-state relations endangering the peace of the country. And the fact that the British Government has undertaken to protect the Princes and to maintain them on the *gadi* and to quell all disturbances that may endanger the safety of the Princes would at the same time entitle the Government to depose the Rulers in cases of gross misgovernment in the interest of state subjects. In any case, it appears to me that the Paramount Power must, in the nature of things, possess the right of punishing the Princes with deposition in three cases—irrespective of treaties with them:—

- (i) in case of gross misrule in the interests of state subjects;
- (ii) proved disloyalty;

and (iii) in cases of breach of inter-state relations endangering the peace of the country.

It is natural that cases of depositions should create feelings of uneasiness and resentfulness in the minds of the Princes in general and that the British Government should try to avoid having recourse to such drastic action and to force the hands of the Princes to abdicate, if possible—as it has done in the case of Nabha, Indore and Jaipur recently. But, none the less, the right to punish the Rulers seems to be inherent in the Government in view of its Suzerainty over the states, and its liability to maintain peace and order throughout the country. During recent years the Government of India has been adopting the policy of giving the Princes the option of abdication or facing a Commission of Inquiry into the affairs in question. And this policy, although resented by the Princes, has proved efficacious.

(5) These so-called "feudal rights" thus make a serious inroad on the "sovereignty" of the Princes; but all the same they are not so troublesome as the interference of the British Government in the day-to-day administration of the states. These "feudal rights" come into operation only on certain occasions, but the intervention of the Paramount Power in the internal affairs of the states is constant though often veiled and insidious and consequently more difficult to combat. It is not possible to give any estimate of the extent to which intervention actually takes place. It, no doubt, varies according

to whether the Ruler of the State is a person of influence, tact and commanding personality or not. But no distinction is drawn between the bigger or treaty states and others in this connection. The British Government interferes in the internal affairs of all states and no state irrespective of its size or antiquity—neither Hyderabad, Kashmir, Mysore Travancore, Gwalior nor Udaipur, Jodhpur—is exempt from such intervention. And it is the opinion of all persons conversant with conditions in Indian States that “the interference of the Government of India in the internal affairs of the..... states.....is comprehensive and pervading, it reduces to a shadow the authority of the ruler, and it assumes under the cover of indigenous agency full sovereign rights, though obviously this is directly contrary to treaty engagements.” (Panikkar). It is for this reason that I have avoided the use of “sovereign” and “sovereignty” in the case of the Princes and their powers. It is, no doubt, true that the earlier treaties with the Princes guaranteed to them full internal autonomy and even the treaties made in 1818, as the one with Udaipur, lays down that the Maharana “shall always be absolute ruler in his own country.” But from the time the British established their superiority in India they have been interfering in the internal affairs of the States, so much so that, in 1852, Sir George Campbell could write :—

“Whatever the original stipulation, there is in fact almost no state with the internal affairs of which

we have not had something to do. There is no uniform system, and it is almost impossible to give any *definite explanation of what things we do meddle with and what we do not.*" 5119

Since the mutiny, the Government of India has openly asserted the right of intervention in the internal affairs of the Indian States and has claimed to be the sole judge of the extent, nature and time of such intervention. How far the Government is justified in putting forward such a claim will be examined later; it is enough to state here the present position. In the first instance, it must be remembered that there are only 40 treaty states; and in the case of some of them, and of all others, the Government has provided for the right to offer advice to the Princes. Moreover, the interference is often not in the form of formal correspondence or authoritative insistence; it is informal and in the form of wish or advice. The ostensible objects for which the Government of India interferes are humanitarian—either to put down inhumane and barbarous practices or to prevent misrule and to protect the rights and interests of state-subjects but often it is done in reality for trade and political benefits.

The Government of India employs various agencies for this purpose. Of course, the chief one is the resident or political officer in charge of the state. He is there to watch over the British interests in the State and to offer friendly advice to the Prince and his administration and to act as the channel of communication between the State and the Paramount

Power. But he is in reality the real ruler and the "master" of the Prince, as M. Chailley has called him. Mr. Panikkar writes :—

"All those who have direct experience of Indian States know that the whisper of the residency is the thunder of the State, and that there is no matter on which the Resident does not feel qualified to give advice." And it is to be remembered that "the advice of the Resident is usually an order or a command."

Another method by which the Government of India controls the administration of the states is through nominating Dewans and sending lent officers to the States. There have been several cases when the British Government have secured the appointment of its own nominees as Dewans and ministers and have insisted on the appointment of a certain number of British officials on important posts in the states.

A third method employed is control through legislation in the states. In most of the states important legislation requires the previous sanction of the British Government. However, it is mainly at the time of regencies that the Paramount Power obtains important concessions and new rights. Advantage is taken to establish new precedents, to deprive the states of the rights of minting their own coins and issuing separate currencies, and to make new agreements in regard to railways, posts and telegraphs. This has been done in the case of a large number of states, many of which are big states like Baroda, Mysore, Travancore, Gwalior,

Indore, Bikaner, Alwar and Jaipur. This has naturally been resented by the Princes and the matter was discussed in the Chamber of Princes in 1924 and an attempt was made to limit the powers of regencies to alienate state rights and privileges.

Another matter that is closely connected with the question of intervention in the internal affairs of the states is the right of the Paramount Power to entertain petitions from state-subjects against state administration. The people in the states obviously attach considerable importance to their right to approach the British Government and they are greatly in favour of intervention by the Paramount Power in the internal affairs of the states. As a matter of fact their complaint is that the Paramount Power does not, in most cases, step in at the proper time. It waits till things have become very serious and threatening—beyond repair. The people in the states will like the Paramount Power to intervene early and secure redress of their grievances and force the Princes to establish civilised administration in the states. It is obvious, that the interests of the state-subjects and their rulers are not the same in this respect and their demands are consequently inconsistent and opposite.

In this connection, it may be mentioned, that the claim of the Paramount Power goes further than the right to entertain petitions from the state-subjects. The Paramount Power has put forward a claim to *direct* allegiance from the subjects of the states. It is, no doubt, true, that in certain circumstances,

for instance, when the Prince has become disloyal or has forfeited all claims to obedience on account of gross maladministration, or there is open rebellion against him, the Paramount Power is entitled to deal directly, for the time being, with the state-subjects; but ordinarily, it is only through the ruler of the state that the Paramount Power can enforce its claims over the state-subjects or protect their interests.

### VIII.

The relations with the Indian States have been conducted uptil now by the Governor-General in Council. "All developments of note are regularly reported to the Secretary of State but it is only as regards important questions of policy that the work of the India Office is concerned with the States." (Sir Malcolm C. C. Seton, "India Office.") Otherwise all matters are decided by the Governor-General in Council.

All matters relating to the Indian States are dealt with through the Foreign and Political Department of the Government of India which is in charge of the Viceroy himself. The Department is divided into two sections: (i) Foreign and (ii) Political, each of which is presided over by a Secretary who is helped by a deputy and an assistant Secretary with Superintendents and clerks under them. There is also an Under-Secretary for the whole Department. The political section deals with matters relating to Indian States, and maintains a military Adviser-in-Chief, Indian State Forces with a staff officer under



him. The officers of the Department are recruited by selection from members of the Indian Civil Service and officers of the Indian Army.

At the time of the Montague-Chelmsford enquiry the position was as follows :—

“While four large States and one small State deal directly with the Government of India through their Resident, there are in Central India Agency some 150 States and in the Rajputana Agency some 20 States and in Baluchistan 2 States under the Agents to the Governor-General. The remaining States are in political relations with local governments. Madras deals with 5 States; Bombay with over 350; Bengal with 2; the United Provinces with 3; the Punjab with 34; Burma with 52; Bihar and Orissa with 26; the Central Provinces with 15; and Assam with 16.”

This was considered unsatisfactory by the authors of the Report on Indian Constitutional Reforms, 1918, who recommended “that all important States should be placed in direct political relations with the Central Government.” This recommendation has been gradually carried out. At present there are six states, Hyderabad, Baroda, Mysore, Jammu and Kashmir, Gwalior and Sikkim, which deal directly with the Government of India through their Residents, and there is one State, Khaniadhana, which is also under the Government of India through the Gwalior Resident. Then there are in Baluchistan 2 States, in Bengal 2 States, in Central India some 90 States, in Madras five States,

in Punjab 13 States, in Rajputana 21 States, and in Western India some 206 States under Agents to the Governor-General. The remaining States are still in political relations with provincial governments. Bombay deals with 151 States, Bihar and Orissa with 26, Central Provinces with 15, the Punjab with 21 and the United Provinces with 3 and Assam with one.

The Political Department deals with the States through the Resident or the Agent-General. In the case of various State Agencies there are political officers—residents or political agents—under the Agent-General, who are in charge of states or group of states and who are in direct touch with the state administration. The states which are under the provincial governments are also in charge of political officers, who are under the Governors, and who are in many cases, either Commissioners or Collectors of divisions and districts in British India. The Government of India controls the States through the residents and political officers as has been already stated above.

In the course of time many functions have been added to the office of the resident and political agent. Originally the duties of the Political Officer were limited and precise “and comprised only the transaction of the external affairs of the states. Or rather their duties were to watch that the states concerned had no external relations except with the Company.” But later, with the introduction of the phrase “subordinate co-operation” in the treaties the

powers of the political agents were greatly enlarged. "With the entire authority of the Government and its military sources behind them, the Political Officers ceased to be any longer mere intermediaries between two parties in alliance. They became dictators in the States." At a still later stage, "there grew up . . . . the theory of giving 'advice' to the Indian rulers". Thus, "the Political Agent has become the repository of almost unique powers. He is a judicial officer entrusted with the enforcement of law against Europeans in all States and against British Indians in some. He is the sole channel of communication with the Government of India, whose deputy he is in all matters. He also enjoys extra-territoriality, freedom from customs, special personal honours, etc. He also represents the Government of India in executive capacity. The combination of such diverse authority makes the Residents of Indian States specially prone to interpret the obligations of 'subordinate co-operation' of states as meaning the compliance without question with any wish they may express." ("The British Crown and the Indian States" by the Directorate of the Chamber).

The relations with the Indian States are thus conducted by the Government of India through the Political Department and its officers who are stationed in the states. The Viceroy maintains a close personal contact with the states by paying occasional visits and by meeting the Indian Princes as often as practicable. Opportunities for consultations have

increased since the establishment of the Chamber of Princes and its Standing Committee.

## IX

Ever since the establishment of the direct rule of the Crown over India the British Government has fostered the policy of treating the two Indias—British India and the India of the Rajas—as one for many purposes, with identity of interests. Unification of India has been brought about by means of railways, posts and telegraphs, by establishing a uniform system of currency and coinage, and by making India a single economic unit. And the Government of India has tried to associate the Princes with the government of the country, and to rally them to its support. When the Indian Legislative Council was constituted in 1861, the Maharaja of Patiala was nominated a member. And it was the proposal of Lord Lytton to establish orders of Indian nobility and an Indian Privy Council consisting of the greater Indian Princes. Lord Lytton had realised that the British could not depend on the educated Indians but that it was possible to rally round the Princes. However, his proposals resulted only in conferring on the Princes the empty title of the “Councillor of the Empress.” The idea was revived by Lord Curzon, who soon after his appointment as Viceroy announced: “The native chief has become, by our policy, an integral factor in the Imperial organisation of India. He is concerned not less than the Viceroy or the Lieutenant-Governor in the administration of

the country." And he proposed the formation of a "Council of Ruling Princes." However, the attitude of Lord Curzon was not altogether friendly or respectful towards the Indian Princes, who resented his régime as much as their fellow-countrymen in British India. But Lord Minto changed the attitude of the Government of India towards the States. As pointed out by the Directorate of the Chamber's Special Organisation in "The British Crown and the Indian States": Lord Minto was alarmed by "the growth of the nationalist movement in British India.....and he saw in the Princes a strong bulwork against subversive movements." He laid down that "the foundation stone of the whole system is the recognition of identity of interests between the Imperial Government and the Durbars, and the minimum of interference with the latter in their own affairs," and "inaugurated that habit of consulting the Indian Princes on matters affecting the welfare of India as a whole, of the Provinces as well as the States." Lord Minto first proposed to establish an Imperial Advisory Council and later suggested the establishment of an Imperial Council of Ruling Princes but neither fructified. However, Lord Hardinge carried the policy of his predecessor a step further by calling a Conference of the Princes to consider questions of higher education in the states. He also cultivated the habit of consulting the Princes whenever their interests were involved and encouraged the Princes to meet together for consultation and common action. And some of

the leading Princes, had, by 1914, begun to form ideas of safeguarding the state interests in the future polity of India. Lord Chelmsford continued the policy of his two predecessors and carried it further by convening conferences of the Princes annually and discussing matters affecting the states as a whole and states and British India jointly. The Princes, however, were not satisfied with things as they were and when Mr. Montague and Lord Chelmsford toured the country in connection with the Reforms Enquiry the Princes through a deputation represented their grievances and enunciated their proposals. The Princes asked for changes in three main directions. To put it in the words of Mr. Rushbrook Williams : "They felt that they had no voice in the determination of All India policy.....Secondly, they deplored the lack of any impartial tribunal to decide disputes arising between themselves and the British Indian authorities, for it seemed to them that in a number of cases the Government of India was at once party and Judge. Finally, they believed that the Political Department.....occasionally acted in disregard of the treaties, and in general exercised an authority which, if benevolent, was nevertheless in certain respects undeniably arbitrary..... To remedy these defects,.....the Princes put forward a scheme for a deliberating assembly in which they could meet together and discuss their common interests"; and which would also arrange for joint consultation with British Indian authorities on All India matters. They further proposed a scheme for

submitting matters of dispute to the arbitration of an impartial tribunal; and lastly, "they desired to associate with the Political Secretary a committee which would, as they hoped, ensure that the general policy of the Department should be more in harmony with the sentiments and desires of the Princes."

The Montague-Chelmsford Report accepted the main proposals of the Princes. The joint authors wrote: "We wish to call into existence a permanent consultative body. There are questions which affect the States generally, and other questions which are of concern either to the Empire as a whole, or to British India and the States in common, upon which we conceive that the opinion of such a body would be of the utmost value. The Viceroy would refer such questions to the Council, and we should have the advantage of their considered opinion. We think it all important that the meetings should be regular, and that ordinarily the Council should meet once a year to discuss agenda approved by the Viceroy." The first proposal of the Report thus was to create a permanent "Council of Princes." "Our second proposal.....is that the Council of Princes should be invited annually to appoint a small Standing Committee to which the Viceroy or the Political Department might refer "matters of customs and usages in particular." The Committee may contain Dewans or Ministers if the Council so desires. Lastly, the Report recommended that in cases of disputes where, in the opinion of the Viceroy, an independent and impartial inquiry was

desirable, the Viceroy should appoint a Commission, consisting of a High Court Judge and one nominee of each party concerned "to inquire into the matter in dispute and to report its conclusions to him. If the Viceroy were unable to accept the finding the matter would be referred for decision by the Secretary of State."

These proposals were considered at a conference of the Ruling Princes at the end of January, 1919, but the conference could not come to any final decision on the matter of representation, though it approved generally the project of instituting a Council of Princes and suggested that it should be called *Narendra Mandal*. The recommendations of this conference were submitted to the Secretary of State and the Viceroy drafted a scheme in consultation with him, which was placed before another conference of the Princes in November, 1919. This scheme for the establishment of the "Chamber of Princes" was approved by the conference and a Codification Committee was appointed by it to help in the work of drafting rules of business and resolutions concerning Courts of Arbitration and Commissions of Enquiry. The Chamber of Princes was formally inaugurated by the Duke of Connaught on February 8th, 1921.

The Chamber of Princes consists of 120 members in all, of which 12 are representing 127 states and the remaining 108 are members in their own right. The remaining 327 states have no representation. But ordinarily the meetings are



attended only by 40 to 50 Princes and some of the most important rulers, like the Nizam of Hyderabad and the Maharaja of Baroda, have never joined the deliberations of the Chamber.

The Chamber meets once a year ordinarily and is presided over by the Viceroy, who also approves of matters that are to be discussed in the Chamber. But the Chamber elects its own Chancellor, who presides in the absence of the Viceroy and is the President of the Standing Committee. The Chamber's sittings were private till January, 1929, when it was decided to make the meetings open and public.

The functions of the Chamber and limitations on its powers are defined thus by the Royal Proclamation :—

"My Viceroy will take its counsel freely in matters relating to the territories of Indian States generally, and in matters which affect those territories jointly with British India or with the rest of my Empire. It will have no concern with the affairs of individual States or their Rulers, or with the relations of individual States to My Government, while the existing system of the States and their freedom of action will be in no way prejudiced or impaired."

The Chamber of Princes elects annually the Chancellor and four other members of the Standing Committee, subject to the condition that the Princes of Rajputana, Central India, Bombay and the Punjab, must each be represented. The Committee

“meets twice or thrice each year at the headquarters of the Government of India and one of its most important functions is to discuss with the various Departments of that Government matters in which the administration of both the States and British India are concerned.” Every year the Committee submits its report to the Chamber. The Committee maintains its headquarters at Delhi, in a hired building, where the Chancellor’s office is also located during the session, and where informal conferences between the Princes are held. These informal conferences are of much greater importance than the meetings of the Chamber as the Princes are free to discuss there whatever subjects they think desirable and because they are sometimes attended by authorised agents of even those Princes who have refused to join the Chamber.

## X.

The matters which have engaged the serious attention of the Standing Committee and the Princes assembled in informal conferences and in the Chamber, in recent years, have been

- (i) The codification of customs and usages of the Political Department,
- (ii) the securing of a share of revenue from such All-India items as Customs, Railways, Posts, Telegraphs, Salt and Excise;
- and (iii) the effects of the grant of further reforms to British India.

The Princes have been greatly perturbed at the claims put forward by Lord Reading in his letter of 27th March, 1926, to the Nizam of Hyderabad and at the prospect of the grant of Dominion Status to British India in the near future.

As early as January 1926, the Chamber of Princes discussed the question of future reforms for British India and their effects on the States and appointed a Committee consisting of the Maharajas of Bikaner, Patiala, Navanagar and Alwar and of Colonel Haksar, Sir Manubhai Mehta, Mr. Bala-sundaram and Dr. Rushbrook Williams to go further into the question. In the November session, the Chamber authorised the Standing Committee to discuss the matter with the Viceroy. In May 1927, a Round Table Conference was held in Simla between Lord Irwin and certain members of his Government on the one hand and the members of the Standing Committee on the other. The need for holding an inquiry into the question of the States was pressed by the Princes and this proposal received sympathetic consideration at the hands of the Viceroy and his Government. The Standing Committee at once sent Colonel Haksar and Dr. Rushbrook Williams to England to prepare public opinion there and to consult eminent British authorities for the preparation of their case. The Viceroy held a conference of political officers at Simla at the end of July, and matured his plans for the appointment of a Committee of Inquiry. The Committee was

actually appointed by the Secretary of State on 16th December, 1927.

The Indian States Committee was thus appointed in response to the request of the Princes and the announcement of the Viceroy was greeted by the Chancellor, who, at once, wired his thanks and added: "the acceptance of the proposal put forward at Simla will be gratefully received by all Princes."

The Objects which the Princes had in view in requesting the appointment of the Committee may again be stated here for the sake of clearness and emphasis. They were:—

- (1) To set at rest their apprehension that the development of Responsible Government in British India will prejudicially affect their position, powers and dignity; and to secure a guarantee from the Paramount Power for the protection, preservation and perpetuation of their Order.
- (2) To establish direct relations with the Crown and to avoid any direct contact with a democratic government of India and with the people in British India whom they suspect of evil designs on themselves.
- (3) To secure the codification of political practice of the Political Department of the Government of India and the limitation of the powers and rights of

Paramount Power, especially those of intervention in the internal affairs of the States.

And (4) to secure a share of the revenues derived by British India from such All-India items as Customs, Railways, Posts, Telegraphs, Salt and Excise.

The British Government was quick to realise the possibilities of the situation, and consequently, readily yielded to the request of the Indian Princes. The Committee was to consist of His Excellency Sir Harcourt Butler, then Governor of Burma, due to retire shortly, who had filled previously the post of the Secretary to the Foreign & Political Department, as Chairman; and the Hon'ble Sidney Peel and W. S. Holdsworth, K.C., Vinerian Professor of English Law, as members; and the terms of reference were as follows :—

“(1) to report upon the relationship between the Paramount Power and the Indian States with particular reference to the rights and obligations arising from :—

(a) treaties, engagements and sanads, and

(b) usage, sufferance and other causes; and

(2) to inquire into the financial and economic relations between British India and the States, and to make any recommendations that the Committee may consider desirable or necessary for their

more satisfactory adjustment." (Page 5, Para 1.)

It is necessary to note that as far as the relations of the Paramount Power with the Indian States are concerned the terms of reference gave no power to the Committee either to discuss its future or to make recommendations for its improvement or to suggest any new machinery for the purpose. It is doubtful whether, under the terms of reference, the Committee was even justified in discussing the question whether the Paramount Power was the Crown—whatever that may mean—or the Government of India. As the Committee itself has pointed out "Part I refers only to the existing relationship between the Paramount Power and the States," (Page 5, para 1). It appears to me that the Committee was not justified at all in discussing the theory of direct relationship or in passing opinion thereon or in recommending changes in the personnel of the Political Department and in the authority that should be in charge of the dealings with Indian States. But other considerations made the Committee disregard the terms of reference in this connection,—though it refused the request of the subjects of the States to discuss their problem and to make its recommendations in connection therewith because the matter was considered beyond the terms of reference.

To equip itself for its task the Committee visited a number of States, invited opinions of States and local governments and heard evidence of a large

number of witnesses both in India and in England. "We visited fifteen States, Rampur, Patiala, Bikaner, Udaipur, Alwar, Jaipur, Jodhpur, Palanpur, Jamnagar, Baroda, Hyderabad, Mysore, Bhopal, Gwalior and Kashmir. At each of these States we discussed locally and informally such questions that were brought before us. We also paid a flying visit to Dholpur. Altogether we travelled some 8,000 miles in India and examined informally 48 witnesses." (Page 6, para 4). The Political Department gave the Committee all assistance that was required. "Altogether seventy replies to the questionnaire were received from different States." (Page 7, para 7). The case of the Princes—not of all but only of the members of the Standing Committee of the Chamber of Princes—was presented on their behalf by Sir Leslie Scott; though "the important states, Hyderabad, Mysore, Baroda, Travancore, as well as Cochin, Rampur, Junagadh and other States in Kathiawar and elsewhere, declined to be represented by Sir Leslie Scott and preferred to state their own case in written replies to the questionnaire." (Page 7, para 6). The Committee has printed the joint opinion of the five eminent counsels of the Standing Committee led by Sir Leslie Scott; but it has not thought fit, for reasons best known to itself, to extend similar courtesy to the views of important States like Hyderabad, Mysore, Baroda, Travancore, etc. It is not possible to form any idea of the kind of evidence submitted to the Committee, except that it was voluminous, instructive and varied—that is what

is stated in the Report—as the sittings of the Committee were held *in Camera*. The public has access only to (1) the joint opinion of the five counsels of the Standing Committee of the Chamber of Princes; (2) the scheme of reform drawn by certain Princes, which has now become “Unauthorised,” published in India in April 1928, and which has been submitted in a different form but drawn “on similar lines” (page 34, para 64) to the Committee; and (3) the memorandum (with supplements, appendices, etc.,) submitted by the representatives of the States’ subjects and published by the Indian States’ Subjects’ Conference, Bombay. It is, therefore, not possible to say as to what extent the recommendations of the Committee are based on the proper appraisal of the evidence submitted. All that can be gathered from the Report is that the Committee has chiefly relied on Lord Reading’s letter to the Nizam, dated the 27th March, 1926, and the joint opinion of the eminent counsels of the Standing Committee of the Chamber of Princes. It certainly will be interesting to know the views of the States which refused to be represented by Sir Leslie, because obviously they did not agree with Sir Leslie’s views. Is it too much to expect that the States concerned may arrange for the publication of their views themselves?

## XI.

In the opening paragraph of the Report the Committee states the problem in this wise:—

“Politically thus there are two Indias, British India, governed by the Crown according to the statutes of



Parliament and enactments of the Indian legislature, and the Indian States under the suzerainty of the Crown and still for the most part under the personal rule of the Princes. Geographically India is one and indivisible, made up of the pink and the yellow. The problem of statesmanship is to hold the two together." (Page 10, para 10).

Leaving aside the question of "the suzerainty of the Crown" with all its implications for discussion later, it is certainly true that "the problem of statesmanship" as stated by the Committee "is to hold the two," British India and the States "together." As Mr. Chintamani has put it in his presidential address delivered at Bombay on the 25th May, 1929, "a federated India owing allegiance to a strong responsible Central Government, truly representative of both the States and the Provinces, is the dearly cherished aspiration of every Indian patriot." At any rate, every responsible leader of both British India and the Indian States is anxious to bring about the consummation of the ideal as early as possible, though many of them recognise the difficulties that have yet to be surmounted for the purpose. But the chief complaint of Indians is that the Butler Committee has tried to place every obstacle it could, as will be clear from the succeeding discussion of its recommendations, in the way of India becoming united and a single political unit. As Sir Tej Bahadur Sapru has put it, the Committee has tried to create "a Chinese Wall" between British India and the Indian States and has thus, according to its own standard—(set up in the opening paragraph

of the Report and quoted above)—proved itself bankrupt of statesmanship. Indeed, some of the recommendations and *obiter dicta* of the Committee are positively harmful to the progress and welfare of India—both British and Indian.

Ever since the pronouncement of August 20, 1917, both the British Government and the Indian Princes—each for reasons of its own—have been trying to separate British India and the Indian States and to gradually evolve the theory that the relations of the Indian Princes are with the Crown and not with the Government of India. The first important step was taken when certain States were transferred from the control of the Provincial Governments to that of the Government of India, and it is now intended to take the last step by transferring the control from the Governor-General in Council (*i.e.* the Government of India) to the Viceroy alone. The Committee recommends “that the Viceroy, not the Governor-General in Council, should in future be the agent of the Crown in its relations with the Princes, and that important matters of dispute between the States themselves, between the States and the Paramount Power, and between the States and British India should be referred to independent committees for advice.” The Committee further adds:—“We hold that the treaties, engagements and sanads have been made with the Crown and that the relationship between the Paramount Power and the Princes should not be transferred, without the agreement of

the latter, to a new government in British India responsible to an Indian legislature."

The second recommendation of the Committee is to separate the Political Department from the Foreign and to recruit men to it and "for service in the States" from the universities in England," and "to train them properly when appointed." (Page 39, para 75). The Committee adds: "It has been represented to us that the pay and the precedence of the Political Secretary should be raised so as to give him a special position among the Secretaries to Government and thus assist him to approach other departments with added weight and authority." (Page 40, para 76).

The third recommendation or conclusion of the Committee is that it is impossible to define paramountcy or to lay down any limitations to the suzerainty of the Crown over the States. As the Committee puts it: "Paramountcy must remain paramount; it must fulfil its obligations defining or adapting itself according to the shifting necessities of the time and the progressive development of the States." (Page 31, para 57). And to make this palatable to the Princes of the Standing Committee, the Committee adds: "on paramountcy and the paramountcy alone can the States rely for their preservation through the generations that are to come. Through paramountcy is pushed aside the danger of destruction or annexation." (Page 31, para 57). And then follows the famous declaration that the relations of the States should not be handed over

without their consent, to an Indian Government responsible to an Indian Legislature.

The fourth recommendation of the Committee is "that an expert body should be appointed to enquire into

- (1) the reasonable claims of the State or group of States to a share in the customs revenue,
- and (2) the adequacy of their contribution to imperial burdens." (Page 44, para 85).

As to a share in the profits of the railways, the Committee writes :—"We cannot find that the States have any reasonable claim to a share of the annual profits now made by the 'Railways.'" (Page 45, para 89). It is not necessary to say anything about the other economic claims of the States as they are unimportant; most of them are rejected by the Committee. Such are the main recommendations of the Indian States Committee. They will be discussed below.

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## CHAPTER I.

### THE FEDERAL IDEAL.

#### I.

The ideal of a United India—a union not only of the British Provinces but one containing the Indian States as well—has now been universally accepted. Leaders of thought both in British India and the Indian States, including the British Government on the one hand and the Indian Princes on the other, have openly avowed their faith in an Indian Federation embracing all Indian Provinces and States.

Mr. Montague and Lord Chelmsford had given expression to their feelings in the matter in their Chapter on "The Native States" (page 192 M. C. Report). "Looking ahead to the future we can picture India to ourselves only as presenting the external semblance of some form of 'Federation.' " And three of the most prominent Ruling Princes to-day, who are taking active part in the propaganda on behalf of the Princes at the present juncture—I mean the Maharajas of Patiala, Bikaner and Alwar—have unequivocally expressed themselves in favour of an Indian Federation. The declaration of H. H. the Maharaja of Patiala in the Chamber of Princes (Feb. 13, 1929) is too recent to be quoted, but I may give a short quotation from a speech of

H. H. the Maharaja of Bikaner (Sept. 8, 1928):—  
“.....those who have given the subject of the future of British India and the Indian States some thought, including in an humble way myself, cannot but come to one conclusion, namely, that the ultimate solution and the only salvation of India.....is some kind of Federation.....” This was more eloquently expressed by H. H. the Maharaja of Alwar:—“My goal is the ‘United States of India’ where every province, every state working out its own destiny, in accordance with its own environment, its traditions, history and religion, will combine together for higher and imperial purposes, each subscribing its little quota of knowledge and experience in a labour of love freely given for noble and higher cause.”

The leaders of the people in the States are, if possible, even more definite and emphatic in avowing their faith in the Federal solution of the Indian Problem. Mr. Hosakoppa Krishna Rao, member of the Mysore Representative Assembly, writing on behalf of the All-India States’ Subjects’ Conference, Madras says: “.....the highest ambition of not only the Indian States but also of the majority of the provinces is to be connected with the Government of India by a scheme of Federation, guaranteeing equal partnership alike to all provinces and States.....” And he has criticised the Nehru Report, because it has not proposed such an all-embracing Indian Federation.

Referring to this question of Federation between British India and the Indian States, the Nehru Report

says: "If the Indian States would be willing to join such a Federation, after realising the full implications of the federal idea, we shall heartily welcome their decision..... We hope and trust that in the light of experience gained the Indian States may make up their mind to join formally the Federation."

It is no doubt true that geographical, ethnical, religious, sociological, economic and national considerations all point the way to a real and permanent political union between the Indian States and British India. Moreover, it is natural for every true Indian, to look forward to the day when India shall no longer be a mere geographical expression but shall also become a national and political unit of great importance playing her legitimate part in the World Commonwealth of Nations. But, unfortunately, there are certain very serious obstacles in the way; and it may take a long time—longer than many of us may like it—to surmount them.

## II.

It has been made clear by those who have spoken on behalf of the Indian States that they wish to preserve the individual identity of the States and that they will oppose their absorption in British India. No one in the States is prepared for unification, even as an ultimate ideal. And however desirable such a unification may appear to some in British India, it must be ruled out of practical politics.

Coming to the question of Federation it should also be clearly understood that the Ruling Princes as

such regard it as an "ultimate" or a distant ideal and not something which can be achieved—like Dominion Status for British India—in the near future. And even when the time is ripe, the Federation which they desire will not be the ordinary type of Federation, as we see it in the U. S. A. or Australia, not to mention Germany or Canada, but something which "may be called semi-federation, quasi-federation, union or pact..... and such federation or union, in view of the unparalleled conditions connected with India and the Indian States, will call for a new adaptation of the Ideas....." to use the words of H. H. the Maharaja of Bikaner who alone among the Princes has cared to go a little further in defining what the future goal is to be. Leaders of thought in British India too regard Federation between British India and the Indian States as impractical in the near future, though they look forward to a true Federation and not some new variety of union as suggested by the Maharaja of Bikaner. It is the leaders of the peoples of the Indian States who are pressing for an immediate Federation. The Committee appointed by the All-India States' Subjects' Conference, Madras, to confer with the All-Parties Conference Committee, popularly known as the Nehru Committee, has severely criticised the Nehru Report for not proposing a political union of Indian States with British India and has submitted a separate scheme of full-fledged Federation. It is easy to understand the anxiety of the States' Subjects' Conference Committee to have an immediate Federation ;



but it is also necessary to point out to them that a true Federation at the present stage is impractical. It is neither timidity nor bankruptcy in statesmanship on the part of the leaders of British India but a sense of the realities of the situation that makes them defer the question of Federation between British India and the Indian States to a more suitable time. But if we are to work for the ideal of a Federation it is necessary that we should clearly understand the nature of the present-day difficulties.

### III.

The first great obstacle in the way of Federation is the existence of a very large—overwhelmingly large-number of very small States. Out of the 562 States “as many as 454 States” writes Mr. Venkatasubhaiya of the Servants of India Society “have an area of less than 1,000 sq. miles, that 452 States have less than 1,000,000 population and that 374 States have revenue of less than Rs. 1 lakh. ....It is only some thirty, among the 562 States, that possess the area, population and resources of an average British Indian District..... As many as 15 States have territories which in no case reach a square mile, while 27 others possess just one square mile..... Three of these States could not boast of a population of 100 souls-and five of them a revenue of Rs. 100. The smallest revenue mentioned is Rs. 20 for the year.....and the smallest population 32 souls.” “From the analysis given above, only

some fifteen States appear to possess the necessary area, population and resources to be able to function efficiently as States according to modern conceptions."

It is not necessary for me to point out that no unit can be included in a Federation which is not in a position to maintain an efficient modern system of administration. The strongest objection that has been raised to the separation of Sind is that it may not be able to bear the financial burden of separate administration. The question, therefore, that faces the people of the Indian States is: "What is to become of the States which are unable to afford a modern and efficient system of administration? It is obvious that no federation containing such States is practical.

The people of the Indian States have not yet faced this question—not, at any rate, in the form in which it is put here. Because, it must be remembered, the question of representing large number of States in an all-India organisation is a very different one; and is not after all so difficult of solution as the one raised here. It is easy enough to group the small States for purposes of representation, as has already been done to a certain extent, in the case of the Chamber of Princes. But the only solution that one can envisage of the problem raised in the preceding paragraph is so unpalatable to the Princes and the peoples of the affected States that they will naturally take time to reconcile themselves to it. The solution to which I refer is the union of

small neighbouring States into big ones or the absorption of isolated small States into the Province in which they are situated.

#### IV.

The second great difficulty in the way of Federation between British India and the Indian States is the prevalence of almost feudal conditions and the existence of personal rule in the States. As Lord Meston has rightly pointed out, federation "cannot cause oil and water to mix. Canada and Australia are federations logical in structure though different in type. But what type or structure are we to find for a federation which is to unite Provinces under a democratic parliamentary system with the States governed by absolute monarchs?" It is no real answer to this question to quote the opinion of Sir Frederick Whyte; "The fact their governments vary in character and present great contrasts to the Provinces is irrelevant. There have been federations of political units possessing very different forms of government and there is no reason why there should not be again." It is really difficult to know as to what examples Sir Frederick had in his mind but all the modern Federations without exception consist of States or Provinces with similar democratic type of government. Even in Imperial Germany States had more or less similar type of government. And one of the important and necessary condition laid down for membership of the League of Nations—which is yet not a Federation—is that "the nation

must be a fully self-governing State, Dominion or Colony." (Art. I Covenant). Indeed, it is obvious that there can be no real friendship or co-operation for any length of time between democracies and absolute monarchies. Moreover, I do not know of any responsible person whether a leader of the people or a Ruler of an Indian State who is prepared to justify to-day irresponsible rule. The establishment of responsible government is the chief aim placed by the Indian States' Subjects' Conference before itself and the impact with British India and the development of responsible institutions therein is bound to add impetus to the movement for self-government within the States. So the adoption of democratic government in the States is a mere matter of time; but, it is necessary to point out, that until that time comes—let us hope it shall come soon—there can be no federation between British India and the Indian States. There are, however, some points that need clarification and emphasis in this connection.

In the first place, it should be clearly understood that what is necessary is the establishment of self-governing institutions and modern standards of administration and not necessarily of republics in the States. Responsible leaders in British India and the Indian States are not against constitutional monarchy, though there are no doubt some persons who look forward to the disappearance of Kings and Princes altogether. It is really in the hands of the Princes which it is to be. But, in any case, it is essential

that they should no longer play with the words "responsible government" and "representative institutions" and give up window dressing. In the address that H. H. the Maharaja of Patiala delivered before the East India Association, London, last year, he gave a curious definition of responsible government. He said: "There is thus a really Indian conception of responsible government which needs to be appreciated; the conception of a government in which every subject knows what his rights are, since those rights are secured to him by custom and by religion, in which public opinion is the final sanction for every act of Government, and is able at any time to bring irresistible, because direct, pressure upon the administration." People in India, especially in the Indian States, know what such a system of responsible government actually means. It means, in the vast majority of States arbitrary rule and exactions, no courts independent and above suspicion, confiscation of property and exile within 24 hours without even a pretence at trial, no freedom of speech, association and press, and lavish expenditure—out of all proportion to the revenue and to the expenditure on the nation-building departments—on festivities, personal pleasures, luxuries and needs of the Royal household and Royal guests. In several States even the honour and person of women is unsafe. Lest the reader may think that I am exaggerating the evils as they prevail in Indian States I may quote here the words of Sir Albion Banerjee who was till recently Foreign and Political Minister, Kashmir,

which is one of the biggest States in India. In an interview to the representative of the Associated Press given at Lahore on 15th March, 1929, Sir Albion said: "Jammu and Kashmir State was labouring under many disadvantages with a very large Mohamadan population, absolutely illiterate and poor. They were governed almost like dumb driven cattle. There was no touch between the government and the people, no means open to them to represent their grievances and the administrative machinery itself required overhauling from top to bottom to bring it up to the modern conditions of efficiency. It had at present little or no sympathy with people's wants and grievances. The intellectual classes, represented by the Pandits, were also in a sense depressed classes, because they have got no opportunity of rising either in Government service or in the field of such useful activities as industry and commerce... .. There was hardly any public opinion in the State. As regards the Press, it was practically non-existent—..... The low economic condition of the people was entirely responsible for those evils (of immorality) which existed....."

After this it is not necessary to say anything further. Those who have read the Introduction will realise that conditions in the vast majority of States are still very unsatisfactory. It is alright to read in news-papers and in the State Reports about the representative institutions that are set up by enlightened Princes; but it is necessary to know what they amount to in practice. H. H. The Maharaja

Jam Sahib of Navangar is spoken of as an enlightened and progressive ruler. At the time of Lord Irwin's visit last year, His Highness declared; "we have tried to move with the times. Long before I have established Advisory Council in which leading men from amongst my people are invited to deliberate and advise on questions of popular and common interest." An Advisory Council was appointed in 1919 and H. H. the Maharaja of Alwar had blessed it on the opening day: but, as far as I have been able to find out, it has never met since and its advice has never been sought by His Highness's government. Or, take the case of the Assembly in Bikaner, whose ruler is certainly one of the most prominent and important Princes, and who is, in many respects, a very beneficent and efficient administrator:—The Bikaner Legislative Assembly or Council, according to "The Tribune" of May 9, 1929, "consists of 45 members, of whom only 18 are elected by an indirect process of election and the rest are either officials or nominated by the Government. The Prime Minister presides at the meetings of the Council, which are few and far between. As for the powers of the Council, they are even less than those of the Councils constituted under the Morley-Minto Reforms. The Council is not entitled to vote on the budget; it can only discuss the budget in a general way.....It is not difficult to realise that the Council is no more than a glorified farce, and the members themselves do not take it seriously, the last session being attended by only half its

members." It is not my intention to criticise the government of Indian States or to disparage the attempts which some of the really enlightened Princes are making to establish representative institutions and to better the conditions of their subjects. All that I wish to do is to emphasise the necessity of establishing real responsible institutions in the Western sense of the term and of reforming the administration of the States.

2. In the Second place, it is hardly necessary to say that the progress and the success of the movement for self-government within the States will rest entirely on the efforts and sacrifices of the people of the States and the best that British Indians can do is to lend them moral support. It is natural on the part of the people of the States to wish to enlist the support of the British Government and the people of British India. It is necessary to examine their arguments in this connection and to see if the policy of intervention which they advocate can be justified. Their argument runs thus:—Within the States all propaganda—political agitation—is forbidden and the people are denied the rights of free speech, free association and open trial. The British Government comes to the help of the Princes if there is any rebellion or disorder in the States. The British Government is bound by its pledges to prevent misrule in Indian States and has already intervened in the case of several States and has been responsible for the deposition and abdication of several Ruling Princes. In any case, as Suzerain Power, it is ultimately



responsible for the good government and welfare of the people in the States. The demand of the people of the Indian States, therefore, is that the British Government should bring pressure to bear on the Indian Princes and, if necessary, force them to reform their administration and establish responsible government. In the letter addressed by Lord Reading to the Nizam of Hyderabad on the 27th March, 1926, there occurs a significant sentence. Wrote His Excellency: "Where Imperial interests are concerned or the general welfare of the people of the State is seriously or grievously affected by the action of its government, it is with the Paramount Power that the ultimate necessity for taking remedial action, if necessary, must lie." The Butler Committee has also adopted a similar attitude. But the position taken up by it will be discussed fully in Chapter III. The people of the Indian States are, therefore, justified in invoking the aid of the British Government in India but it is well for them to remember that fine arguments butter no parsnips and that self-government is never won by petitioning. As to the active help of the people of British India, I believe the position that the majority of Indian leaders have taken up is a correct one. As long as the Indian States remain separate entities and their internal affairs are managed within the States and the representatives of India are barred from even discussing them in the Assembly, so long the policy of non-intervention is the only practical one. The existence of the Princes Protection Act on the Statute

Book of British India makes it very difficult for publicists in British India to give any real help to the people of the Indian States. It is only advice and moral support that the leaders of British India can give, under the present circumstances, to the people of Indian States. It certainly is very true that "Nations by themselves are made."

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## CHAPTER II.

### DIRECT RELATIONS WITH THE CROWN.

The theory of direct relationship with the Crown has been gradually evolved by the Princes and the British since the pronouncement of August 20, 1917. The first clear statement of it—so far as I know—is in the letter of the ex-Maharaja of Indore, written in connection with the recommendations contained in Chapter X of the Montague-Chelmsford Report. He wrote :—

"Before proceeding further it is necessary to invite full attention to the basic truth that His Highness' treaty relations are with the British Government maintained in India by His Excellency the Viceroy as the representative of His Majesty the King-Emperor. An autonomous government of India controlled by elected or nominated representatives of British India is not the power with which His Highness' ancestors entered into treaty or political relations. To such a government His Highness has never owed and never can owe any obligation nor can British India or its would be autonomous government rightly advance any claim to occupy in political relations to His Highness the position accorded by treaty to His Majesty and his Government. With an autonomous government presided over by a Governor-General, British India can but occupy with regard to Indore the position of a sister state like Gwalior or Hyderabad, each absolutely independent of the other and having His Majesty's Government as the connecting link between the two . . . . . it would be necessary when an autonomous government for British India comes into existence to treat it as a sister and neighbouring state

and to insist on His Highness' right to deal direct with His Majesty's representative in India or His Majesty's Government in London rather than become a part or co-ordinate factor in the machine of autonomous government of British India. This would be in consonance with and befitting the position of His Highness as an independent ally of the British Government."

What an irony of fate that the Prince who styled himself as "an independent ally of the British Government" was forced a few years later by the Government of British India to abdicate. However, to resume the narrative, there are indications of the theory in the Montague-Chelmsford Report. The first definite step towards achieving it in actual practice was taken a few years ago by the transference of certain States from the control of the Provincial Governments to that of the Government of India. In 1924, Sir Malcolm Hailey referred to the question in the Indian Legislative Assembly in the following words:—

"Are they (i.e. the Indian States) to be dependent on the Crown or are they to be controlled by the new government responsible only to the Indian legislature instead of a government responsible to the British Parliament. Will they accept that?"

The position now taken up by Sir Leslie Scott, the eminent counsel of the Princes, and the Butler Committee was stated four years ago by Dr. A. B. Keith in his book "The Constitution, Administration and the Laws of the Empire." "It is important to note" writes Dr. Keith (Page 250), "that the relations of the Native States, however conducted, are

essentially relations with the British Crown and not with the Indian Government and that this fact presents an essential complication, as regards the establishment of responsible government in India. It is clear that it is not possible for the Crown to transfer its rights under a treaty, without assent of the Native States to the Government of India under responsible government." But this was hardly noticed by the people of India at the time. It was the publication of a letter by Sir Leslie Scott in "The Law Quarterly Review" of June 1928 that drew the attention of the leaders of thought in British India to the mischievous doctrine that was slowly emerging since 1917. Sir Leslie Scott laid down five propositions for the time being, but it is necessary to quote here only two:—(a) ".....Contracts are between Sovereigns—the Princes and the Crown—not the Company or the Government of British India." (b) "The Princes in making them gave their confidence to the British Crown and Nation, and the Crown cannot assign the contracts to any third party. The British Government as Paramount Power has undertaken the defence of all the States and, therefore, to remain in India with whatever military and naval forces may be requisite to enable it to discharge that obligation. It cannot hand over those forces to any other Government—to a foreign power such as France or Japan; to a Dominion Government such as Canada or Australia, nor even to British India." This is put a little differently in the joint opinion of the five counsels of the Standing Committee headed

by Sir Leslie Scott : They have stated their position in the shape of seven conclusions or propositions, the last of which runs as follows :—“The relationship is between the States on the one hand and the British Crown on the other hand. The rights and obligations of the British Crown are of such a nature that they cannot be assigned to or performed by persons who are not under its control.” (Page 60 of the Report). This is accepted by the Indian States Committee : “We agree that the relationship of the States to the Paramount Power is a relationship to the Crown and that the treaties made with them are treaties made with the Crown and those treaties are of continuing and binding force as between the States which made them and the Crown.” (Page 23, Para 38). The Committee also accepts the second part of the above-stated conclusion of the five counsels. In a later paragraph (para 58, page 31) it writes : “if any government in the nature of a dominion government should be constituted in British India, such a government would clearly be a new government resting on a new and written constitution. The contingency has not arisen ; we are not directly concerned with it ; the relations of the States to such a government would raise questions of law and policy which we cannot now and here foreshadow in detail. We feel bound, however, to draw attention to the really grave apprehension of the Princes on this score, and to record our strong opinion that, in view of the historical nature of the relationship between the Paramount Power and the

Princes, the latter should not be transferred without their own agreement to a relationship with a new government in British India responsible to an Indian Legislature."

## II

The Butler Committee has not considered it necessary to give any historical facts or any legal arguments in support of its acceptance of the doctrine of direct relationship or of the necessity of the consent of the Princes to any change in the agency of control. It may, therefore, be assumed that the Committee has accepted the arguments of the "Joint Opinion." As a matter of fact, even the "Joint Opinion" does not cite any historical facts in this connection and rests its case on certain assumptions. However to avoid misrepresentation I give the arguments of the eminent counsels of the Princes in their own words:—

"The mutual rights and obligations created by treaty and agreement are between the States and the British Crown. The Paramount Power is the British Crown and no one else; and it is to it that the States have entrusted their foreign relations and external and internal security. It was no accidental or loose use of language, when on the threshold of dealing with the subject of the Indian States, the Montague-Chelmsford Report described the relationship as the relationship to the British Crown; for the treaty relations of the States are with the King in his British or it may be in his Imperial capacity, and not with the King in the right of one of his dominions The contract is with the Crown as the head of the Executive Government of the United

Kingdom under the constitutional control of the British Parliament."

" . . . . . Not only is the British Crown responsible for the defence and security of the States and the conduct of their foreign relations, but it has undertaken to discharge these duties itself for the States. The British Crown has this in common with a corporation that by its nature it must act through individuals ; but where it has undertaken obligations and duties which have been thus entrusted to it by the other contracting party in reliance on its special characteristics and reputation, it must carry out those obligations and duties by persons under its own control, and cannot delegate performance to independent persons, nor assign to others the burden of its obligations or the benefit of its rights. So the British Crown cannot require the Indian States to transfer the loyalty which they have undertaken to show to the British Crown to any third party nor can it, without their consent, hand over to persons who are in law or fact independent of, the control of the British Crown, the conduct of the States foreign relations, nor the maintenance of their external or internal security."

### III

Before discussing the views stated in the previous section I feel it necessary to state my position clearly.

(1) The original treaties and engagements, etc., in most cases, were made between the States and the East India Company and the relations were conducted by the officials of the Company in India, from 1773 by the Governor-General under the authority of the Court of Directors and the general control of the Board of Control. Often the Governor-General conducted the dealings with the



States against the advice and without previous consultation with the Court of Directors and the Board of Control. The East India Company first got its powers through Royal Charters; but later it derived its authority by Acts of Parliament. The Government was carried on in the name of the East India Company by its officials and all treaties and engagements were made by the officials of the Company in the name of the Company and not of the British Crown—though under authority derived from the British Parliament. It is, therefore, untrue to say, that the treaties, engagements, etc., of the States were made with the British Crown. If any proof is necessary it is furnished by the very extracts which are given by Sir Leslie Scott in the Appendix to the "Joint Opinion." This is the first sentence of the Appendix (Page 75 of the Report) and is taken from Queen Victoria's Proclamation, 1858:—

"We hereby announce to the Native Princes of India that all treaties and engagements made with them by or under authority of the Honourable East India Company are by us accepted and will be scrupulously observed . . . . ."

(2) The treaties and engagements were entered into by the States with the East India Company because it was the ruler of an important portion of India and not because it was a British trading company. And it was because the Government of the territories of the East India Company was transferred to the Crown (acting through the Secretary of State for India and the Governor-General in Council with the help of other officials, and responsible

to the British Parliament) that the Crown also accepted the duty—among others—to recognise the treaties and engagements with the Indian States. It was, so to speak, a corollary to the acceptance of the government of British India; and if the government of British India had been transferred to some other body or person, that body or person would have had to assume the consequent responsibility of accepting the treaties and engagements with the Indian Princes.

(3) The people of India and the Indian Princes accepted the transfer gladly, because they recognised that the change was for the better, and was unavoidable, under the circumstances. There was no question of the consent of the Princes; the might of the British and the jealousies of the States were enough to make them acquiesce in the change—the only consolation was that the exchange was advantageous on the whole, for both the people of British India and the Indian Princes.

(4) Since the transfer of the Government of British India to the Crown the relations with the States have been conducted by the Governor-General in Council through the Foreign and Political Department, various Local Governments, British officials in the States; and except in important cases, (it appears from the correspondence between the Governor-General and the Princes, for instance, from the letters of the Nizam to Lord Reading and of Lord Reading to the Nizam) without consulting the Secretary of State. The very fact that the

Committee proposes to transfer the charge of the Indian States from the Governor-General in Council to the Viceroy shows that till now the relations of the States were with the Government of India and not with the British Crown.

(5) Since the transfer of the government of India to the Crown, British India's relations with foreign powers—including the making of treaties, etc.,—are conducted in the name of the Crown as Ruler of British India and on behalf of British India; so are the relations of British India with the Indian States conducted in the name of the Crown, as Ruler of British India and on behalf of British India.

It is thus clear that the relations of the States are with the Government of British India; which was vested in the East India Company till 1858 and has since been vested in the Crown, who acts through the Governor-General in Council and the other machinery created by the Government of India Acts 1915 and 1919. The relations with the States have actually been conducted so far by the Governor-General in Council. All acts of the Government of India are done in the name of the Crown in whom the Statutes have vested the government of the country. The Crown is not only King of England (Great Britain), of the Dominions and of Ireland, but also that of British India.

The Paramount Power has been throughout that body in whom the Government of India has been legally vested for the time being—it may have been the Emperor at Delhi, the East India Company,

with its headquarters in London or the Crown with his palace in London or Windsor. It is true that at the present time the Crown is the paramount authority but he is paramount not because he is the King of England but because it is in him that the Government of British India is vested. It is the Government of India which is the Paramount Power as far as the Indian States are concerned; and this is proved by the fact that several of the States pay tribute to the Government of India, the amount of which is credited to the revenues of British India. If the Paramount Power had been the Chief Executive of Great Britain and not the Sovereign of British India, then the tribute would have been paid to Great Britain and credited to British revenues. It is significant that all these facts have been entirely ignored by both the eminent counsels of the Princes and the Butler Committee.

If these facts are borne in mind it will be readily admitted that the relations of the Indian States have been all along with the rulers of British India—and if they are today with the Crown, they are so because he is the ruler of British India at present; and that up till now the relations with the States have been conducted by the Governor-General in Council. The Indian Princes have nothing to do with the Chief Executive of Great Britain though they are bound by certain ties to the Sovereign of British India. The confusion comes only because it happens that the Crown of England and of India is possessed by the same person,

H. M. King George V. Of course, there are persons who consciously take advantage of it for their own purposes.

#### IV

It will thus be clear that the statements of Sir Leslie Scott are without any historic or legal foundation. The relations of the States are with the Government of British India and are conducted by the Governor-General in Council—the supreme political authority, not only in British India, but also in the whole of India, including the States. It is a different question, whether in view of the contemplated changes in the Government of British India any change should be made in the agency of control or not, and whether such a change should be made with or without the consent of the Indian Princes. I propose to deal with this question separately.

My second contention is that even if it be accepted for the sake of discussion that the British Crown is the Paramount Power, and that it has undertaken the defence of Indian States, the consequences suggested by Dr. Keith, Sir Leslie Scott and the Indian States Committee do not follow as a matter of course. The question as to whether responsible government should or should not be granted to British India has already been decided in the affirmative and, as H. E. Lord Irwin puts it, "the Declaration of 1917 stands and will stand for all time as the solemn pledge of the British people to

do all that can be done by one people to assist another to attain their full political stature, and the pledge so given will never be dishonoured." (Address to the Indian Legislative Assembly—28-1-29). The Indian Princes have also on numerous occasions—and especially in the course of the debate on the question in the Chamber of Princes on February 13, 1929, expressed their full sympathy and support with British India's demands for full dominion status. Replying to the accusation that Indian Princes are trying to place "barriers against the efforts of British India to attain self-government," H. H. the Maharaja of Bikaner is reported to have said: "We have heard and replied to such astounding accusations *ad naseum*; and it really seems a waste of time and breath in the circumstances to repeat to-night (9th Sept. 1928) that such allegations are absolutely false and without the least foundation and that they do an injustice to the British Government as well as to the Princes..... Such attitude on the part of the Princes.....would, on considerations of self-interest alone.....in the long run prove fatal to them and their States." In any case, it is now clearly too late in the day to raise the question as, for instance, Dr. Keith does, "that this fact presents an essential complication, as regards the establishment of responsible government in India." Such a point ought to have been raised—if at all—at the time when the pronouncement of August 20, 1917, was being drafted. Moreover, it is only fair to presume that before the

British Government pledged its word "to do all that can be done.....to assist another to attain their full political stature," to use Lord Irwin's words, it must have taken all such "facts" as those mentioned by Dr. Keith and Sir Leslie Scott into consideration.

Leaving aside, however, these declarations of policy and also the fact that Indians are determined to win *Swaraj*, it is my contention that the grant of self-government to British India raises no legal or practical difficulties in the way of the Crown's discharging his obligations towards the Indian States. In the first place, the Government of India under Dominion Status, will be more truly King's Government than it is today. According to the Report of the Inter-Imperial Relations Committee, 1926 (known as the Balfour Report), His Majesty governs a Dominion with and on the advise of his ministry in that Dominion, and, when India becomes a Dominion, the Government of India will be carried on by His Majesty, with and on the advise of his Indian Ministry. As a matter of fact the only material difference between Independence and Dominion Status lies in this that under Dominion Status the British Crown will continue to be the Sovereign of British India and the government will be conducted by His Majesty's ministers; while with Independence British Crown will cease to be the Sovereign of British India and the Government of India shall have nothing to do with His Majesty. It is surprising how this essential point has been

ignored by the various British constitutional authorities.

In the second place, it must not be forgotten that the responsibility for Imperial Defence—as well as Foreign Policy—is now shared by the Dominions with Great Britain; and whatever obligations the Crown has incurred in that connection it is the duty of the British Government as well as of the Government of the Dominions to discharge by common consultation and arrangements. The British Commonwealth, as a whole, including the Dominion of India—when it acquires that status—is responsible for all Imperial liabilities; and the Government of India shall be bound—as long as it remains in the Empire—to look after Imperial defence to the best of its abilities. That is a necessary consequence of the membership of the British Commonwealth of Nations. Hence, the British Crown shall have no difficulty whatsoever in discharging his obligations towards the States. As has been admitted by Sir Leslie and his colleagues “The States cannot dictate to the Crown the particular methods by which, or servants through whom the Crown should carry out its obligations..... So long as the obligations are being fulfilled, and the rights of the States respected, the States have no valid complaint. This liberty is necessarily subject to the condition that the agency and machinery used by the Crown for carrying out its obligations must not be of such a character as to make it politically impractical for the Crown to carry out its obligations in a satisfactory



manner." (Page 74 Appendix III of the Report). It is, I submit, a misunderstanding of the exact constitutional position of the Crown and of the liabilities of Dominion Governments for Imperial Defence which is responsible for such remarks as those made by Sir Leslie Scott in the Law Quarterly Review. To quote again:—"The British Government as Paramount Power has undertaken the defence of all the States, and, therefore, to remain in India with whatever military and naval forces may be requisite to enable it to discharge that obligation. It cannot hand over those forces to any other government—to a foreign power such as France or Japan; to a Dominion Government such as Canada and Australia, nor even to British India." This passage, if I may say so, betrays absolute ignorance about the position of the Dominions in the British Commonwealth of Nations. As I have said above, the Commonwealth, as a whole, is responsible for Imperial defence and not the Government of Great Britain alone. In this particular case, the main burden of defence is bound to fall, under any circumstances, on British India; and the self-interest of British India alone—if not her sense of duty to the British Commonwealth of Nations—will be sufficient to ensure the safety of Indian States from external attack and internal disorder. So there is no question of the obligation remaining undischarged or the Crown not being in a position to fulfil his engagements. And if the question of control over the Agent is raised, as it is by Sir Leslie, what actual

control has the Crown itself on even the British Government let alone the Dominion Governments? It is idle to raise such questions; but what does matter is the certainty of protection to the States. "So long as those obligations are being fulfilled" to quote Sir Leslie again, "the States have no valid complaint." The Indian States have nothing whatsoever 'to fear—as far as external defence and internal security are concerned—from the grant of responsible government to British India. British India cannot afford to allow the States to be attacked by outside powers or to see grave disorder prevailing within their border as that will affect its own safety, peace and tranquillity.

My third contention is that whatever may be the legal or constitutional position, the Indian States and British India are so situated that they cannot but have intimate relations with each other. The geographical position of the States is such that neither they nor an autonomous British India can afford to leave each other alone and go their respective ways. An autonomous British India cannot allow the Indian States to become independent and enter into relations with outside States nor can it afford to tolerate gross misrule and tyranny in the States and allow things to drift in a way that may endanger the peace and progress of the people in British India. On the other hand, the States cannot but enter into agreements with the autonomous government of British India as they are bound to be affected by its policy in regard to such matters as

defence, customs, currency, exchange, transport and communications. It is idle for the Indian Princes to talk of their treaty relations with the Crown and of their having nothing to do with the Government of India. They cannot escape the logic of facts and, as they have in the past dealt with the Supreme Government in India—whether it was the Mughal or the British—so, I am afraid, they shall have to deal with the future government of India and to acknowledge its suzerainty. Situated as the Indian States are they must inevitably have relations with British India. Of course, the ideal to which all true Indians are looking forward is that of a United India, in which there shall be no distinction between the "British Indian Provinces" and the "Indian States;" or to put it a little differently:—People, both in British India and the Indian States, are looking forward to the time when the two Indias will not only be a geographical, economic and cultural unit, but will also form—by means of a true federation—a political unit as well. One cannot help feeling, that it is to prevent this consummation or to delay it as long as possible, that the British have put forward this theory of direct relations.

## V

At this stage, it is certainly natural to ask, that, if the facts are as I have stated them above, why are the Indian Princes so anxious to establish direct relations with the *British Crown*—not the Crown of British India—and to avoid having any-

thing to do with the future responsible government of British India? The answer is not difficult to give.

If truth must be baldly stated, the Indian Princes are, in their heart of hearts, as the phrase is, afraid that the grant of Dominion Status and the existence of a democratic government in British India—let alone relations with it—will prejudicially affect their powers and may even result in the total disappearance of their Order. And who can say with perfect frankness that their fears are altogether groundless?

The anxiety of the Princes is, therefore, easy to understand but it is not possible to approve their attitude. The theory of direct relations cannot save them and the States from the effects of the establishment of democratic government in British India. Their safety lies in granting responsible government to their peoples and in changing themselves, like the British King, from autocratic, absolute, though even beneficent rulers to constitutional monarchs. An unholy alliance with the British cannot save them from the doom as it has not done other autocrats elsewhere in the world. The path of wisdom surely lies in accepting the inevitable gracefully, in true British fashion, and not in trying to achieve the impossible like the Czars of Russia. Indian Princes, if they wish to remain in their states, must become constitutional rulers, and enter into amicable relations with British India. Situated as the States physically are they cannot avoid having relations with British India. Under these circumstances wisdom surely lies in cultivating friendly relations

with it and not in creating insurmountable barriers between the two political units of one country—the common motherland of all Indians, Princes and the paupers alike.

## VI

However, the people in British India are surprised and hurt at the attitude adopted by the Indian Princes towards British Indians and the future government of India responsible to the Indian legislature and the people of British India. It may not be difficult to prove that this distrust is unreasonable and that the Princes are likely to fare very much better at the hands of Indians and the government responsible to the people of British India. But it is necessary to recognise that the Princes are not likely to change their opinion at the present stage. It is only when they have become convinced that even the help of the British will not enable them to withstand popular demand for responsible government within the States and they are forced to reconcile themselves to the idea of acting as constitutional rulers that they will be prepared to trust an Indian government which is responsible to an Indian legislature. It is for this reason that I have stated in Chapter I that there can be no real friendship and co-operation between democracies and autocracies. As to the distrust of Indian officials and the question of tolerating Indian Political Officers considerable time will be necessary to bring about the desired state of affairs. The Indian Princes, I believe, consider it

beneath their dignity to have a person of the race and nationality of their subjects as resident or political officer in the states. It is a case of what is called "inferiority complex" and time is needed to get over it. However, the only result of such an attitude on the part of the Princes will be to strengthen the growing feeling in the minds of British Indians against them and to force the Indians in British India to join hands with the people of the States in their fight for freedom and establishment of responsible government in the States. It may even result in an attempt to eliminate the Princes altogether. This is clear from the address which Mr. C. Y. Chintamani delivered recently at Bombay as president of the Indian States' Subjects' Conference.

However, the points that I wish to emphasise here are two:—(1) That the position of the Indian States is such that they cannot help having relations with British India. There are so many points of contact between British India and the States and there are several important economic questions that affect both "British India" and "Indian" India. Or, as I have stated above: India is not only a geographical unit but is also an economic and a national unit as well. The case of Ulster is very different. Ulster is inhabited by men of different race and religion and even the economic interests of Southern Ireland are different from those of Northern Ireland. The attempt to make the States an Indian Ulster is bound to fail—and the only result of it will be to strengthen revulsion of feelings in the

minds of Indians, both "British" and "Indian" against the Princes.

(2) It is necessary for the Princes to recognise that the movement for the establishment of constitutional rule in the States has come to stay and that it is bound to grow in strength and volume with the lapse of each day and each month and each year. And as several British statesmen have also pointed out Indian States cannot escape the effects of the establishment of popular institutions in British India. Even if the Princes have nothing to do with the democratic government of "British" India, the States are bound to be affected by the currents of thought prevalent in "British" India. And no amount of repression and censoring will avail the Princes—it will only help to shorten the duration of their rule and existence. This is the lesson of history though, I must sadly admit, it is very difficult to learn for the Princes. But it must be frankly stated that the whole future of the Princes is bound up with the acceptance or rejection of this lesson.

## VII

Taking, therefore, for granted, that the Indian States and British India are bound to have intimate relations in the future as they have had in the past, it is pertinent to enquire as to what should be the nature of such a relationship. H. H. the Maharaja of Bikaner is perfectly right when he says that the Princes cannot be "expected to take a plunge in the dark and to commit their States and their subjects

irrevocably and without retrieve, without at least satisfying themselves that they will be sure of getting justice, under proper and adequate guarantee and safeguards, as regards their legitimate rights and claims." In this connection it is significant to note that Pandit Motilal Nehru has issued invitations to the Princes on behalf of the Committee of the All-Parties Conference for drafting the future constitution of India, to meet the Committee to discuss the nature of future relationship between British India and the Indian States. An attempt has been made in the pages that follow to examine the claims of the Princes and to suggest lines on which a new settlement can be made with them.

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## CHAPTER III

### TREATY POSITION.

#### I

The first claim of the Indian Princes is that their treaty rights should be secured to them. These they point out have been guaranteed to them by the Government of India Act, 1858, and by the Proclamations of Queen Victoria and her successors from time to time. But their complaint is that, "through whatever causes, there have, in fact, been numerous cases, not confined to any particular States or areas, of clear and definite infringements of the Treaties and other rights of the States." (Speech of the Maharaja of Bikaner, Sept. 9, 1928). This has been admitted by Lord Chelmsford in a speech in the Princes' Conference :—

"There is no doubt that with the growth of new conditions and the unification of India under the British Power political doctrines have constantly developed. In the case of extra-territorial jurisdiction; railways and telegraph, limitations of armaments, coinage, currency and opium policy and the administration of the cantonments, to give some of the more salient instances, the relations between the states and the Imperial Government have been changed. The change, however, has come about in the interests of India as a whole. We cannot deny, however, that the treaty position has been affected and that a body of usages in some cases arbitrary but always benevolent has come into being."

There is thus no doubt of the fact that there have

been infringements of the treaties with the Indian States by the British Government. But before apportioning blame or reaching any conclusion on this question it is necessary to consider the following points.

In the first place, it is necessary to point out that the number of States which have treaty relations with the British Government is very small. There are altogether forty States which have got treaties with the British. They are :—Alwar (1803); Bahawalpur (1838); Banswara (1818); Baroda (1805); Bharatpur (1805); Bhopal (1818); Bikaner (1818); Bundi (1818); Cochin (1809); Cutch (1819); Datia (1818); Dewas (Senior, Junior) (1818); Dhar (1819); Dholpur (1806); Gwalior (1804) and (1844); Hyderabad (1800) and (1853); Indore (1818); Jaipur (1818); Jaisalmer (1818); Jammu & Kashmir (1846); Jhalawar (1838); Jodhpur (1818); Kalat (1876); Karauli (1817); Khairpur (1838); Kishengarh (1818); Kolhapur (1812); Kotah (1817); Mysore (1881) and (1913); Orchha (1812); Partabgarh (1818); Rampur (1794); Rewa (1812); Samthar (1817); Sawantwari (1819); Sikkim (1814); Sirohi (1823); Travancore (1805); Tonk (1817); Udaipur (1818). I have mentioned the dates of the treaties to indicate the conditions under which they were concluded. The majority of treaties were concluded in the second period; only 12 in the first period and one since the mutiny.

Second, it is well to bear in mind that a treaty is supposed to be voluntary and that its breach can only be punished by the use of force. The weaker

party has no recourse but to submit to infringements—with protests if it likes; and the stronger party, sure of its position can afford to ignore the protests and risk open rupture. The Indian States have had to submit, often quietly and sometimes under protest, to what they have regarded departures from the treaty position by the British Government, because they were the weaker party and could not go to war with British Government to maintain their treaty rights. This does not mean that the British Government should ride roughshod over the treaty rights of the Princes; but it does mean that, under the circumstances, the Princes are helpless to protect their so-called treaty rights: They have no legal remedy.

The five eminent counsels of the Princes have passed over the question in an off-hand manner. They say:—

“The possibility in law of the Paramount Power repudiating its legal relationship with its dependent state, and using force or pressure to acquire powers over it, in breach of the contractual terms need not be considered. The pronouncements, . . . . (of the British Sovereigns to respect rights and privileges) put conscious attempt of the kind wholly out of the question; and the exercise in fact of force or pressure whether intended or not, would be a breach of the contract.” (Page 61 of the Report).

This is merely shirking the issue. The eminent counsels knew very well that there have been cases of infringements of treaty rights and, they must also have known, that the States were helpless to do anything except to make useless protests. Of course, this is not a satisfactory position. I have suggested

later that all matters of dispute between the Government of India and the Indian States should be referred to the Supreme Court created for the purpose.

Thirdly, it has to be frankly admitted that departures from the treaty positions were inevitable. Although there are persons who fondly imagine that the East is unchangeable, everyone who is conversant with facts has to admit that the whole position in India—especially the position of the British and the Indian Princes, the ideas and ideals of government, the relation between the rulers and the ruled—has undergone complete change in the course of the century and the treaties concluded in the early years of the nineteenth century could ill-fit the conditions prevailing in the second decade of the twentieth century. Changes in relations between British India and the Indian States were absolutely essential; the only question was as to how they were to be made; by usage or sufferance or by new engagements or treaties. Sir Leslie's contention is that usage or sufferance is not a source of rights and unless there is a tacit agreement—with full intent to make one—underlying the usage, it has no binding force whatsoever. Sir Leslie, like the theoretical champion of free competition, seems to forget that contracts and treaties are often forced and are not always free. An unpleasant agreement may be forced on a Prince just as he may be forced to submit to a decision, which may in course of time become 'political practice.' There is very little distinction between the two in

actual practice; except that the Princes may prefer the method of the treaty, as it may save them from some encroachments, and the Paramount Power may prefer usage, as it is more penetrating and less obvious and unpleasant. In any case, the British, true to their traditions and fully conscious of their power and prestige, made use of custom and convention in changing the relationship with the Indian States and did not resort to the wholesale revision of the treaties. Moreover, as has been pointed out in the Introduction, the actual control, in most cases, is exercised not through formal correspondence or authoritative insistence but through the Resident or political agent in an informal way.

Fourthly, it may be stated, that the changes which have been made through usage and sufference are not all one sided. Whilst it is true that the Princes have lost valuable rights by gradual encroachments made by the Paramount Power, until to-day there is not a single Prince who can claim even full internal autonomy; it is also true at the same time that they have gained valuable rights as well through usage or political practice. Among the latter may be mentioned those of meeting together, holding conferences and consultations, taking joint and concerted action, and being consulted and represented in Imperial and International conferences and on Imperial and Indian questions.

Lastly, it is necessary to point out that the right of intervention in the internal affairs of the States which the Paramount Power has gradually acquired

by political practice is essential in the interest of the State-subjects and the people of the States have put forward a strong plea for the retention and extension of this power by the Government of India. This point will be discussed further in the next Chapter.

Thus, while it is not right to say, as Lord Curzon did, that the treaties with the Indian States are mere scraps of paper or that changes made by the Government of India have always been wholesome and beneficent or even benevolent and in the interest of State-subjects; it is also not justifiable for the Indian Princes to insist on the observance of the letters of the treaties. The treaties have, in many cases, become obsolete and it is in the interest of both British India and the Indian States to disregard them whenever necessary. On the other hand, the political practice of the Political Department needs codification and modification in the light of conditions as they exist to-day and are likely to exist in the near future. The relations must, in the nature of things, undergo change as the conditions alter.

Another point that is often forgotten but is important to remember is, that usages and customs are necessary to supplement written documents—treaties, constitutions, etc., and to light up dark places in them, as the Butler Report has well put it. Even in a country like the United States of America conventions have grown up round its rigid and written constitution. When a constitution has been in force for a long period, a body of custom or usage—conventions—grows round it, which is just

as important, often much more important, than the written constitution or the treaty itself. And instances are not wanting in England where the conventions have not only supplemented but have occasionally even gone against the provisions of written documents and statutes. It is, therefore, surprising that English lawyers of the position of Sir Leslie Scott and his colleagues should deny any validity to usage or political practice, which has been followed for a long time in the case of Indian States. Of course, one can easily understand the desire to change some usage or custom and, if it can be shown that a particular custom is harmful to the growth of the State or the interests of the people in the States it ought to be immediately changed.

## II

Sir Leslie Scott and his colleagues have taken a narrow and a purely theoretical and legal view of the sources of rights and have conveniently ignored as to how they are acquired in practice. They have also attached too great an importance to merely formal expressions of wishes on the part of the Crown in the Proclamations issued from time to time and have paid no attention whatever to the policies communicated by Viceroys who have been entrusted by the Crown to carry out its undertakings in practice. The eminent counsels of the Princes hold that rights are acquired only in two ways: (i) by conquest and (ii) by voluntary agreements. It is not

possible to assume that Sir Leslie and his colleagues are entirely ignorant of the history of European Expansion, say in Africa, during the last quarter of the 19th century. Who is there who does not know of the way in which "treaties" were made with the African chiefs by the various European Powers and how they have extended their control over the African Continent? Of course, it is easy enough to condemn the methods employed in Empire building by the various Powers; but the facts of their dominion and control cannot be explained away by legal quibblings. The British Government in India has come to acquire by gradual "penetration" a considerable amount of control over the internal affairs of the States. One can easily understand the anxiety of the Princes to get rid of it as much and as soon as possible. But to depend on treaties that were made over a hundred years ago in most cases and which have very little relation to the conditions as they exist in India to-day is puerile. The Princes ought to base their claim for internal autonomy on more solid and modern grounds—as for instance, those urged by separate historic units elsewhere or even by the Provinces in British India.

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## CHAPTER IV.

### PARAMOUNTCY AND STATE SOVEREIGNTY.

#### I

The second claim of the Indian Princes is that they are Sovereign Rulers and ought to be treated as such by the British Government. Much confusion of thought has arisen on account of the use of words "sovereign" and "sovereignty" in connection with the person and powers of the Indian Princes. A number of them no doubt possess important powers of administration but in no case do they amount to full sovereignty. Whether sovereignty is divisible or not, no country or its government can be called "sovereign" unless it possesses independence or is free from external control; and none of the Indian States lays any claim whatsoever to external independence. Even in regard to internal affairs the British Government has reserved to itself the right of ultimate intervention. It is no doubt true that there are Indian Princes who possess "their own High Courts for which there is no appeal either to the Privy Council or to the King" and the British Government has often put them on a par with those who do not possess full civil and criminal jurisdiction and who are more of feudal lords than territorial rulers. But it is also a

fact that there is no Indian State which is free from British intervention in its internal affairs. Hyderabad is the biggest and the wealthiest State in India and its Ruler is officially styled as "His Exalted Highness" and "our Faithfull—(though not independent)—Ally" and internal autonomy is guaranteed to it by treaty; but even it is not free from interference by the Paramount Power in its internal affairs. To quote Mr. Panikkar "the interference of the Government of India in the internal affairs of Indian States is.....comprehensive and pervading, it reduces to a shadow the authority of the ruler....." Thus there is no doubt of the fact that none of the Indian States possesses in practice even internal autonomy. The power of the Government of India is all-pervasive and comprehensive; and it possesses in reality sovereignty over the whole of India. It is for this reason that I have avoided the use of the words "Sovereign" and "Sovereignty" in the case of Indian States and their Rulers.

## II

It is no doubt true that the treaties generally guarantee internal autonomy to the Indian Princes; but such treaties were made under very different circumstances. And it is also true, as the eminent counsels of the Princes point out, that many writers, including Sir Lee Warner, describe the States as possessing "internal sovereignty" and many official documents too use the word "sovereignty" in connection with the States.

"As examples we may quote Sanads after the mutiny which refer to "the government of the several Princes and Chiefs who now govern their own territories" or the proclamation of the 19th April, 1875, dealing with Baroda in which the Gaekwar Malhar Rao is deposed from the "sovereignty of Baroda" and the "sovereignty" of the State is conferred on his successor ; or reference in the Montagu-Chelmsford Report to the "independence of the States in matters of internal administration" and to "their internal autonomy " (Page 61 of the Report).

But it is, at the same time, true that the authorities referred to by Sir Leslie Scott and his colleagues also assert the right of the Paramount Power to interfere in the internal affairs of the States. To take Sir William Lee Warner first, he mentions two categories of cases in which the Paramount Power may intervene. "The Government of India may interfere in the interests of a State protected by it or a sovereign recognised by it, or it may interfere mainly in the interests of British subjects and of the Empire as a whole." Leaving aside the cases of certain States where the Paramount Power has by treaty or usage reserved special rights of intervention, there are some six types of intervention that apply to all States alike, and which belong to the first category, i.e., where the Government interferes in the interest of the States themselves.

"There is, first, the right to recognise succession to sovereignties and to regulate disputed successions . . . . . There is secondly the right of interference to prevent dismemberment of a State ; thirdly to suppress rebellion against the lawful sovereign ; fourthly, to prevent gross misrule ; fifthly, to check inhuman

practices, or offences against natural law or public morality ; and sixthly, to secure religious toleration." C  
(Page 283).

In the second division of cases, Sir William mentions the following :—

"Examples of them are afforded by the measures taken to secure jurisdiction over British subjects, to protect the coinage of British India, to maintain an uniform gauge in jurisdiction on railways, and to assist the proper working of the judicial system of British India in a country fissured by a variety of foreign jurisdictions." (Pages 284 and 285).

To take the Report on Indian Constitutional Reforms, 1918 next : This is what it writes in this connection. To avoid misunderstanding I quote the passage in full :—

"We cannot disregard the fact that the general clause which occurs in many of the treaties to the effect that the chief shall remain absolute Ruler of his country has not in the past precluded, and does not even now preclude, 'interference with the administration by Government through the agency of its representatives at the Native Courts'. We need hardly say that such interference has not been employed in wanton disregard of treaty obligations. During the earlier days of our intimate relations with the States British Agents found themselves compelled often against their will, to assume responsibility for the welfare of a people, to restore order from chaos, to prevent inhuman practices, and to guide the hands of a weak or incompetent Ruler as the only alternative to the termination of his rule. So, too, at the present day, the Government of India acknowledges, as trustee, a responsibility (which the Princes themselves desire to maintain) for the proper administration of States during minority, and also an obligation for the prevention or correction of flagrant misgovernment."

Lastly, I may quote the views of Lords Canning, Mayo and Reading in this connection:—

(1) In a minute of 1860, Lord Canning stated:—

"The Government of India is not precluded from stepping in to set right such serious abuses in a native government as may threaten any part of the country with anarchy or disturbance, nor from assuming temporary charge of a Native State when there will be sufficient reason to do so Of this necessity the Governor-General in Council is the sole judge subject to the control of Parliament. Neither will the assurance diminish our right to visit a State with the highest penalties, even confiscation, in the event of disloyalty or flagrant breach of engagement."

(2) In his great Durbar in Rajputana, Lord Mayo said to the assembled Princes:—

"If we respect your rights and privileges, you should also respect the rights and regard the privileges of those who are placed beneath your care. If we support you in your power, we expect in return good government. We demand that everywhere throughout the length and breadth of Rajputana, justice and order shall prevail; that everyman's property shall be secure, that the traveller shall come and go in safety, that the cultivator shall enjoy the fruits of his labour and the trader the produce of his commerce; that you shall make roads and undertake the construction of those works of irrigation which will improve the condition of the people and swell the revenue of your States; that you shall encourage education and provide for the relief of the sick."

(3) In his letter to the Nizam, dated the 27th March, 1926, Lord Reading wrote:—

"The right of the British Government to intervene in the internal affairs of Indian States is another instance of the consequences necessarily involved in the supremacy

of the British Crown. The British Government have indeed shown again and again that they have no desire to exercise this right without grave reason. But the internal, no less than the external, security which the Ruling Princes enjoy is due ultimately to the protecting power of the British Government, and where imperial interests are concerned, or the general welfare of the people of a state is seriously and grievously affected by the action of its government, it is with the Paramount Power that the ultimate responsibility of taking remedial action, if necessary, must lie. The varying degrees of internal sovereignty which the rulers enjoy are all subject to the due exercise by the Paramount Power of this responsibility."

It is thus clear that although official documents and correspondence do use the words "internal sovereignty" in connection with the Indian States, they, at the same time, reserve important powers of intervention to the Paramount Power in the internal affairs of the States. It has already been pointed out that the Government of India controls the administration of the States to a very large extent in practice, so much so that the authority of the Ruler is reduced to a mere shadow as it is put by Mr. Panikkar. It may tickle the vanity of Indian Princes to be called "Sovereign" but they do not possess in reality even "internal sovereignty."

## II

The cases in which the Paramount Power has the right of intervention have been already enumerated above and they are mentioned in the quotations from Sir William Lee Warner given in the preceeding

section. They are grouped together into three classes by the Indian States Committee:—"Intervention may take place for the benefit of the Prince, of the State, of India as a whole." As stated in the Introduction one of the main objects of the Princes in asking for the appointment of the Committee was to secure limitation on the exercise of the powers of intervention by the Paramount Power in the internal affairs of the States. It is no doubt true that the Paramount Power has often interfered needlessly and to secure undue advantages to itself and to the detriment of the interests of the States concerned, but it must also be admitted that it is necessary that the Paramount Power should possess the right of ultimate intervention in the internal affairs of the States for some time to come. This is so, not only from the points of view of the State-subjects and of British India, but also from that of the Princes themselves. There have been cases when the Princes have themselves asked for the intervention of the Government of India, and even now they want the Paramount Power to keep them on their thrones and to intervene to quell all disturbances and rebellions. But, of course, the Princes do not want any intervention on behalf of their people and for the purpose of laying down any limits on their powers. The people of the Indian States, on the other hand, are anxious to secure intervention, especially to prevent misrule and to obtain certain fundamental rights. They are discontented with the present policy of the Political Department. The memorandum of the

Indian States' People to the Butler Committee states :—

“The conduct of the Political Department is also open to the criticism that it has interfered in all cases wherever the Rulers in their frenzy and headlong career of mal-administration have defied not only their subjects but even their political officers. The history of the voluntary abdications of Indore and Nabha, the trial of Malhar Rao Holkar, the deposition of the Chief of Aundh and the ultimatum sent to His Exalted Highness—all these unmistakably prove that when the authority of the Government was directly challenged, when Imperial interests were seriously affected, when political officers were openly flouted and when attempts were made against on their lives, the Political Department hastened to interfere and adopted remedial measures ; but in all cases when the Rulers have been most obedient, nay even servile to the Political Department and attentive to keep the officers of the Department mightily pleased, they have been suffered to continue their misrule to the utter prejudice and ruin of helpless subjects of the States. When misrule becomes quite intolerable and people are goaded by desperation to the verge of rebellion the Paramount Power has interfered. Is it not, therefore, absolutely necessary to change this policy and to adopt a vigilant and watchful policy to secure good government to the people so long as they are enjoying the protection of the Paramount Power ; that their sufferings should not be aggravated to reach particular intensity before their wrongs could be redressed?”

The recommendations of the Indian States Committee in this connection appear to me very fair both to the Princes and to the people of the States, as far as they go. The Committee has accepted the obligation to intervene in cases of insurrection and to see that the Prince is not eliminated and that his



rights, privileges and dignity are maintained, but, it is, at the same time, of opinion that the Paramount Power would be bound to suggest such measures as would meet the needs of the situation—including the redress of legitimate grievances and the inauguration of reforms which would satisfy the legitimate demands of the people. (Paragraphs 49 and 50 of the Report.)

However, these recommendations do not go far enough from the point of view of the people of the States. They emphasise the duty of the Paramount Power "to maintain unimpaired the privileges, rights and dignities of the Princes" but do not insist sufficiently on the duties that the Princes owe to their people. The Paramount Power is to intervene only when an attempt is made by the people to eliminate the Prince or, as the old formula had it, in the case of "gross misrule." That surely is not enough to meet the needs of the present day: "The general interests of the people" require that they should have certain elementary rights—like those of free speech and discussion, security of person and property, definite and impartial justice—and that the Government in the States be carried on at least in consultation with them if not by them to begin with. Certain reforms are absolutely essential and it is the duty of the Paramount Power, in the interests of the Princes themselves, to persuade them to introduce at once. In any case, it is necessary to point out to the Princes that the only effective guarantee against intervention

in the internal affairs of the States is the setting up of constitutional rule in them. And if this is done the Paramount Power shall have no excuse to interfere and the people of the States will have no reason to ask for intervention. Every one then will resent intervention from outside, and the States will regain, what they have lost, their internal autonomy or "internal sovereignty" if they prefer the latter phrase. But so long as responsible government does not exist in the States and the people of the States have no means of redress against their rulers and the old method of deposition even is not open, so long it is necessary in the interest of the welfare of the people of the States and of the peace and good order of the country as a whole—that the Paramount Power should have the right of intervention and putting an end to misrule and misconduct. There are, however, two grievances of the Princes in this connection which are just and ought to be redressed.

In the first place, it is necessary to make a distinction between large states with full civil and criminal jurisdiction and petty principalities with no pretence to internal autonomy. In the past they have often been lumped together, and as Lord Chelmsford frankly admitted, "practice appropriate in the case of lesser chiefs" has been "inadvertently applied to the greater ones also." In my opinion there are 41 States whose size, population, revenue, history and dignity (the latter two indicated by the Salutes fired in honour of their Rulers) entitle them to separate and higher type of treatment. Their

names may be mentioned here. Facts regarding them are tabulated in an appendix at the end. Hyderabad, Mysore, Baroda, Jammu and Kashmir, Travancore, Gwalior, Patiala, Indore, Jodhpur, Jaipur, Bhavanagar, Kolhapur, Bikaner, Junagadh, Cochin, Nawanagar, Bhopal, Rewa, Alwar, Rampur, Udaipur, Bahawalpur, Kotah, Kapurthala, Cutch, Bharatpur, Jind, Tonk, Khairpur, Nabha, Benares, Datia, Dholpur, Dhar, Kalat, Idar, Bundi, Sirohi, Orchha, Dewas (senior) and Karauli.

Secondly, in the case of large States all interference in matters of internal administration should cease under ordinary circumstances. The residents stationed in such States should not be veiled dictators but should be there only to safeguard imperial interests and to keep an eye on the administration so that they may be able to give warning before things go too far. The treatment that these residents, political agents and other political officers on duty in the States have meted out to the Rulers in the past has often been "haughty, ..... impertinent and ironical." This was noticed even by King Edward when he came to India as Prince of Wales. This has been responsible for constant complaint and friction between the rulers and the British Government, as pointed out by Mr. Panikkar. "Residents under a sense of pique or from anger resulting from legitimate opposition have visited Princes and rulers with penalties for imaginary offences. The case of the Maharaja of Kashmir whose first punishment had to be set aside later on,

that of the Ruler of Udaipur, whose letter to the Viceroy giving full details of his case, created a political scandal, that of the Rajah of Satara whose State was annexed on unproved accusations of the Resident, the high handed policy of Colonel Macauley in Travancore, which led to military intervention ..... can be quoted in support of this." It is time that such intervention and arrogant behaviour should cease and that the bigger States be allowed to work out their destiny in their own way, provided of course, that the imperial interests and interests of the people of the States are not jeopardised thereby. In practice, however, to repeat again, the best guarantee of non-intervention in the internal affairs of the States will be the setting up of constitutional rule and modern standards of administration by the Rulers.

#### IV

The claim of the Indian Princes to "sovereignty" even "internal sovereignty" is thus not very sound; though, I believe, it is in their own hands to win back internal sovereignty by the grant of responsible government to their people; and by adopting modern standards of administration they can make it impossible for the Paramount Power to interfere in the internal affairs of the States. But the method adopted by the Princes is very different. In their case before the Indian States Committee they have laid emphasis on their treaty rights and have enunciated the theory of "residuary jurisdiction."

"Every state having its own independent existence retained whatever powers of sovereignty it did not give away to the Crown." The "joint opinion" of the five counsels covers 16 closely printed pages of the Butler Report and as many as 15 are devoted to proving that the Paramount Power does not possess any other rights except those definitely granted by the States to the Crown. The Government of India has, however, maintained that as Paramount Power it possesses certain rights irrespective of treaties and engagements. This claim to general supremacy or sovereignty the British have laid ever since the mutiny and has been asserted by Lord Canning and his successors from time to time. It was put emphatically and clearly by Lord Reading in his reply to the Nizam :—

"The sovereignty of the British Crown is supreme in India, and therefore no Ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independently of them and, quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements with the Indian States to preserve peace and good order throughout India . . . . ."

According to the Government of India thus "the *Sovereignty* of the Crown is everywhere unchallenged" and "the treaties are merely unilateral acts of the Crown, setting a self-imposed limit on its inherent powers over the States." To put it in the words of Lord Curzon, the Crown "has

itself laid down the limitations of its own prerogative." This view has been accepted by Hall, the well-known authority on International Law. He says that in matters not provided for by the treaty a "residuary jurisdiction is considered to exist, and the treaties themselves are subject to the reservation that they may be disregarded, when the supreme interests of the Empire are involved, or even when the interests of the subjects of the Native Princes are gravely affected. The treaties really amount to little more than statements of limitation which the Imperial Government, except in very exceptional circumstances, places on its action."

However defective such statements may be from the point of view of pure legal theory, as pointed out by Sir Leslie Scott and his colleagues, it must be frankly confessed that they are very much nearer the truth and describe much more accurately things as they exist than the views stated in the "joint opinion" by the Counsels of the Princes.

The Indian States Committee has rejected the whole case of the Princes as far as the rights of the Paramount Power are concerned and has asserted claims more thorough going than any put forward before. The Committee writes:—

"The relationship of the Paramount Power with the States is not a merely contractual relationship, resting on treaties made more than a century ago. It is a living, growing, relationship shaped by circumstances and policy, resting, as Professor Westlake has said, on a mixture of history, theory and modern fact. The novel

theory of a Paramountcy agreement, limited as in the legal opinion, is unsupported by evidence, is thoroughly undermined by the long list of grievances placed before us. . . . . It is not in accordance with historical fact that when the Indian States came into contact with the British Power they were independent. . . . . Nearly all of them were subordinate or tributary to the Mughal Empire, the Mahratta supremacy or the Sikh kingdom, and dependent on them. Some were rescued, others were created, by the British "

"Usage and sufferance have operated in two main directions. In several cases, where no treaty, engagement or sanad exists, usage and sufferance have supplied its place in favour of the States. In all cases usage and sufferance have operated to determine questions on which the treaties, engagements and sanads are silent; they have been a constant factor in the interpretation of these treaties, engagements and sanads; and they have thus consolidated the position of the Crown as Paramount Power "

"It is not in accordance with historical fact that paramountcy gives the Crown definite rights and imposes upon it definite duties in respect of certain matters only, viz., that relating to foreign affairs and external and internal security, unless those terms are made to cover all those acts which the Crown through its agents has considered necessary for imperial purposes, for the good government of India as a whole, the good government of individual states, the suppression of barbarous practices, the saving of human life, and for dealing with cases in which rulers have proved unfit for their position."

After criticising the case of the Princes the Committee proceeds to state the nature of the relationship that exists between the Indian States and the Paramount Power. It is summed up in the word

“Paramountcy”; and this is how it is described by the Committee:—

“We have endeavoured, as others before us have endeavoured to find some formula which will cover the exercise of Paramountcy, and we have failed, as others before us have failed, to do so. The reason for such failure is not far to seek. Conditions alter rapidly in a changing world. Imperial necessity and new conditions may at any time raise unexpected situations. Paramountcy must remain paramount; it must fulfil its obligations defining or adopting itself according to the shifting necessities of the time and the progressive development of the States.”

This is the exact antithesis of the position taken up by the Princes. The Committee has not thought fit to inquire into cases of grievances which the States have put before it, but has nevertheless expressed its opinion:—“We find that the relationship between the Princes and the Paramount Power has on the whole been harmonious and satisfactory.” Similarly, it has given an excellent certificate to the officials of the Political Department and to the Political Officers in the States without caring to examine into the grievances of the States in that connection:—“we have formed the highest opinion of the work of the Political Department,” etc.,.....

As I have already stated, it is necessary for the Paramount Power to have the right of intervention in the internal affairs of the States in certain cases; but that does not mean that the rights summed up in “paramountcy” are unlimited and indefinable. And although it is true that usage and sufferance do determine along with treaties, engagements and



sanads the nature of relationship that may exist between the Paramount Power and the States it is also a fact that an unsympathetic Political Secretary may take advantage of the situation and proceed to interpret "practice" to the detriment of the rights and interests of the States. In order to ensure that the Political Department of the Government of India and its officers in the States will not interfere needlessly and that intervention will not be harmful to the interests of the States, it is necessary to make changes in the machinery of co-operation between the Indian States and British India. I have discussed this question in a later Chapter and have put forward certain suggestions in that connection. Here it is only necessary to point out that the ideal, in the case of the bigger States is surely that of non-intervention; but so long as they remain autocratically governed and the Paramount Power remains committed to protect their Rulers and maintain them on the *Gadi*, the Government of India must have the power of protecting the interests of State-subjects, British India and the country as a whole. To repeat again, the only effective guarantee against intervention and unnecessary interference is the setting up of constitutional rule in the States. But it is also desirable that the Paramount Power should inaugurate a policy of non-intervention and allow the States where constitutional rule is being set up to mould their destinies—in internal affairs—in their own way.

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## CHAPTER V.

### ECONOMIC RELATIONS.

#### I

The third claim of the Indian Princes is to a share of the revenue derived by the Government of India from Sea Customs, Salt, Railways, Currency and Mints, Income-tax and Excise. According to the estimate of the Directorate of the Chamber's Special Organisation the contribution of the States under the heads just mentioned comes to a little over Rs. 10 crores. This estimate is only rough and tentative and the Princes have asked for the appointment of "an expert committee, upon which the Indian States should be adequately represented," to determine the exact figure by applying certain general principles of adjustment agreed to between the Paramount Power and the Princes. In the case put forward before the Indian States Committee the Princes have pressed the need for readjustment of economic relations between British India and the States and of giving relief to the tax-payer in the States. They have asked the Committee to accept certain general principles for apportioning the revenue from all-India items between British India and the States. This is how the general case has been stated on behalf of the Princes :—

"The States are not so wealthy as British India. They have no considerable rich middle class, and their banking

system is in general less developed. It is absolutely essential to the building up of a sound new industrial system that every *anna* which is available should be left in the States to assist in their reconstruction, and that the load of taxation, not only for internal purposes, where it may in many cases be devoted to uses which will be helpful to future development, but more especially for external purposes, should be reduced to a minimum.

It is this urgent need for capital which has led the Princes to review the payments made by them to central revenues and to examine the justice of the claims on which those payments are demanded."

## II

Before examining the Princes' claim in detail in case of each particular item it is necessary to consider the basis on which this claim rests. The Princes have themselves acknowledged "that the situation of the Indian States is unique in history and no known relationship provides precedents to solve the problems they present. The analogy with a federation of independent states is not complete; the analogy with the subject provinces of an Empire is not complete, and international law is hardly of any assistance at all." They have, therefore, to fall back upon determining as to "what are the rights and obligations on each side—primarily legal or constitutional rights ..... and secondarily of a political or moral order ..... if there be any ground for supposing that such rights exist." "The Princes are asking that their obligations to contribute to central revenues may be examined both in the

light of their treaties and of the services rendered to them by Government."

The relation as it exists at present is, as we have seen in the preceeding chapters, one of protection and defence. The British Government has undertaken to protect the States against external aggression and to provide internal security and the Indian States are dependent on the Government of India for their continued existence. Gradually the British Government has extended its sovereignty over the whole of India and has acquired a number of valuable rights over the States. The existing relationship is based partly on treaties, engagements and sanads and partly on usage and sufferance. The Princes are anxious to change the nature of this relationship and to make it purely static and contractual.

As I have pointed out above, the ideal surely is that of a federation between British India and the Indian States. In a true federation subjects of national importance, such as foreign affairs, defence, through communications, posts and telegraphs, tariffs, etc., are controlled by the Central or Federal Government and the revenue from such national sources as Sea Customs, National Monopolies like Salt, Currency and Mints, Railways, Income-tax and Excise is placed at its disposal to discharge its obligations. So if a federation comes into existence the Indian States cannot look forward to any share from the all-India sources. At most, they may be relieved of the burden of maintaining State forces for Imperial purposes. However, as stated in

Chapter I, it is not possible to have a federation between British India and the Indian States for a considerable time to come.

Strictly speaking it is true that the States are not in the position of provinces, though in several respects there are striking resemblances. No one is anxious to see Indian States turned into Imperial provinces and therefore that contingency need not be taken into consideration here. And as far as International Law is concerned it has no binding force in the case of Indian States, although it has been argued by Mr. Panikkar in an article in the *Karnataka* of September, 1927, that "a body of rules affecting the relation of Sovereign States and every day enlarging its scope of authority must affect the developments, if not the decisions, in the interstatal controversies arising in India." And he adds further: "Recent developments in international law are of such a nature as to make their principles more applicable to Indian cases also." The Princes, although they are of opinion that "international law is of hardly any assistance at all" do, as a matter of fact, base their claims in some cases on international practice. So it may be necessary to refer to rules of international law in the discussion of the Princes' economic claims.

However, to return to the discussion of the present basis of relationship between the Indian States and British India, it may be pointed out at once that neither treaties nor usage entitle the Princes to any share in the revenue from the all-

India sources enumerated above. The Government of India has entered into agreements with several States in regard to Customs, Salt, Railways, Posts and Telegraphs; but in all these cases the agreements have been carried out. There is no stipulation in any of the treaties, engagements etc., to the effect that the Princes shall be entitled to a share of the revenue from all-India sources. There is thus no legal or constitutional right which the Princes can put forward in support of their claim. The only basis is what they have termed "political or moral right." The Princes have argued that part of the revenue derived by the Government of India is paid by the subjects of the States for which they have no benefits in return. To put it in the words of the Directorate of the Chamber's Special Organisation: "The peoples of Indian States are at present subjected to a considerable burden of taxation for which they receive no return and for which there can be no justification."

The Princes have only recently become conscious of the injustice of the present situation and for obvious reasons. Till recently the railways were running at a loss and the revenue from customs under free trade régime was comparatively small; but these two items are today responsible for  $8\frac{1}{4}$  crores out of Rs. 10 crores which the Princes have estimated that the peoples of the States are contributing to the Indian Exchequer. This had been acknowledged by the Princes: "In the days of a 5 per cent. tariff the injustice may have been

theoretically as great, but the economic loss was small."

The claim of the Princes to a share in the revenue from all-India sources is thus of very recent origin and is based on the ground that the part which state-subjects pay ought to be remitted to the Princes for the material and moral development of the peoples in the States. The Government of India does not levy any tax on the residents of the States as such; it collects its taxes in British India. And no one can deny that the Government of India is fully justified in levying sea customs and other taxes on goods entering or leaving its ports or on persons living in British India. Surely the Government of India cannot be blamed if the incidence of the taxes it levies is shifted in some cases on the subjects of the States. It is certainly the misfortune of those States that they are so situated that a part of the burden of some taxes in British India ultimately falls on their subjects. But that is a natural disadvantage which they have to bear with fortitude as they have to put up with other drawbacks of their situation. The States which are situated on the coast enjoy the advantages of their position and the British Government has entered into agreements with them for their mutual benefit. But the land-locked States are from this point of view in an unfortunate position. It is a pity; but they must put up with their misfortune. This point will have to be discussed further when the case of Sea Customs is separately examined. Here it is enough to state, that canons

of taxation do not include any such "political or moral" principle that the incidence of taxes should not be shifted on peoples of other States. On the other hand, statesmen try their best to make the tax burden as light as possible on their own citizens and do not mind if the incidence can be shifted to some extent on the foreigner. So the Government of India is not perpetrating any injustice on the States in levying taxes in British India and in reaping the advantages of its situation.

### III

The general basis of the Princes' economic claim is thus not sound. It is, however, necessary to examine the arguments in the case of different items separately especially in the case of Customs and Railways which are from the point of view of the Princes the two most important items.

(1) To take the case of the railways first, because it is simpler and of much less importance than that of customs to the States. The Princes point out that "in the last few years they (the Railways) have come into their own as a sound profit-making concern of Government." They contribute a considerable sum to the general revenues. "This contribution comes from charging railway travellers, and people who consign goods by railways more than the services have cost to provide. That is to say, it is in the nature of a tax paid by the consumers of railway services" a number of whom are state-subjects. The contribution of the peoples



of the States is estimated at Rs. 120 lakhs by the Directorate of the Chamber's Special Organisation.

In the first instance it is necessary to point out that the revenue derived from railways and other commercial undertakings such as posts, telegraphs, salt, etc., is in the nature of monopoly gain and not of a tax. If the railways were built and run by private companies they will also charge the consumer "more than the services have cost to provide." As a matter of fact the danger is that they will charge the consumers much more than the Government does; and that is one of the reasons why the service is undertaken by the Government.

Secondly, the railways in India have become a paying concern only "a few years ago." As long as they were running at a loss which was being made good by the tax-payer of British India the Indian States kept enjoying the service without offering to give any contribution to make up the loss; but now that they have become "a sound profit-making concern" the Rulers of Indian States have come out with their claim for a share! It is not necessary to point out that such an one-sided claim has no legs to stand upon and that those who have shouldered the burden of the loss in the past in the hope of profit in the future are the only persons who have any right to the present gain.

Thirdly, the users of railway service have no claim whatsoever to any share of the profits of the railways; otherwise the thousands of tourists who use our railways will also claim a share. The Government

of India has enabled the people of British India and the Indian States to enjoy railway services without their being subjected to the evils of private monopoly. They have undertaken the service at a great risk and have suffered great loss in the past. At last they have begun to reap the advantage of their past enterprise. Surely they are fully entitled to every penny of the profits they can get, without taking undue advantage of their monopoly. This is also the conclusion that the Indian States Committee has reached on this point: "We cannot find that the States have any reasonable claim to a share of the annual profits now made by the Railways."

(2) The item of sea customs is the most important from the point of view of the States: They claim a remission of over 7 crores under this head. The arguments of the Princes may be summarised as follows:—

(a) The Government of India has no right to levy customs duties on goods that are meant to be consumed in the Indian States and not in British India—"a moment's consideration of the case of Switzerland, or Austria will show that this is a right which it would be impossible to claim. The Government of India, moreover, demands no such right in respect of Independent States, such as Nepal and Afghanistan."

(b) That customs duties are in the nature of transit duties. The Government of India has forced the States to abolish all transit duties and in justice

it ought not to levy them in the case of the States. In this connection the Princes have referred to the Barcelona Convention of 1921 under which the signatories agree, subject to certain conditions, to freedom of transit of goods across territory of any one of the contracting States.

(c) "If it be recognised that international relationships present no analogy relevant to this question, the *Prima facie* case against these payments becomes even stronger. It is clearly unjust to tax the whole of a nation or of a confederacy and to exclude a particular part of it from participation in the revenue which that tax yields."

As I have already stated and as it is pointed out by the Indian States Committee "every country has from its geographical position the right to impose customs duties at its frontier, that such customs duties have been imposed by British India and indeed by the maritime or frontier Indian States for a long period without objection or protest on the part of the inland States. Separate conventions or agreements have been made by the British Government with maritime or frontier States such as Travancore, Cochin, Baroda, the leading Kathiawar States and Kashmir, thereby recognising the rights and advantages secured to those States by geographical position." "Most inland States in India still impose their own import and export duties: Mysore being the big exception. In many States the import and export duties yield a share of the state revenue second only to land revenue,

especially in areas of deficient rainfall where the land revenue is a very variable item. In the aggregate these state duties amount to four and a half crores of rupees or about £3,375,000 a year."

Secondly, it has been admitted by Sir Leslie Scott and accepted by the Butler Committee "that customs duties are not transit duties." Transit duty is the tax levied on goods consigned to another State which merely pass through the territory of the State. And there is certainly a feeling in the international world, evidenced by the Barcelona Convention of 1921 referred to above, that transit duties should ordinarily be not charged. But as already stated Indian customs duties are not transit duties. Only a very small portion of the goods that go to the States are imported direct from abroad; the bulk of the goods that ultimately find their way into the States are imported by merchants in British India and it is these merchants that pay the customs duty. The merchants in British India may or may not be able to shift part or the whole of this burden on the consumer in the Indian States; but with that surely the Government of India has no concern. So the cases of Switzerland, Austria, etc., are not in point. Neither is the reference to the Barcelona Convention of any help in this connection. It deals only with transit duties and even then "clause 15 of that convention expressly excludes States in the position of Indian States."

Thirdly, it is not true to say that the Indian States derive no benefits from the functions that the

Government of India performs. Indian States and British India do not form a federation at present but, as pointed out above, even when they do come to form a federation items like customs, railways, etc., will continue to be with the Central or Federal Government. The Indian States cannot expect to gain from the financial point of view though they are bound to enjoy many other advantages when they join with British India in a true federation.

So, it is clear, that the Government of India "is fully entitled to impose maritime customs" to use the words of the Butler Committee and the Indian States have no *right* to claim any portion of the revenue derived from import duties levied on goods entering through British Indian ports.

The Indian States Committee has, however, come to the conclusion "that the States have a strong claim to some relief." The reason given by the Committee is of a practical nature. It is that since British India has adopted the policy of protection, the states have "a real and substantial grievance." They were not consulted and "majority of them derive no benefit from protection and their subjects have to pay enhanced price on imported goods, in effect a double customs duty, their taxable capacity being reduced to the extent of the maritime duty." As acknowledged by the Directorate of the Chamber's Special Organisation increase in the rate of the duty does not affect the theoretical position. It is no doubt true that the burden of the duty has increased on the state-

subjects, but otherwise the position remains the same. If there is double taxation now, so there was before; and if the taxable capacity is reduced now to the extent of the maritime duty, so it was before. The difference is, as stated by the Princes, in the amount of the burden or loss.

This increased loss is due to the adoption by the Government of India of the policy of discriminate protection for the whole of India, including the Indian States. The people in India have to shoulder a heavy burden in the hope of reaping advantages in the future through rapid industrialisation; and it is therefore untrue to say that the state-subjects are made to pay without receiving anything in return. The advantages of protection are meant both for British India and the Indian States. This is the stage of sacrifice for both; reward is expected to come later.

It is really surprising to read in the Report of the Indian States Committee that the Indian States were not consulted and that the majority of them derive no benefit from protection. This is not correct. Let me quote the words of the Indian Fiscal Commission: "When our questionnaire was issued copies of it were circulated to the Indian States. In addition to a few separate communications, we received a joint memorandum representing the views of no less than 32 Indian States, and we had the advantage of examining at Delhi Mr. Manubhai N. Mehta, Minister of the Baroda State, in connection with this joint memorandum." The case of the States was also strongly put before the Commission

by Professor Stanley Jevons, the then University Professor of Economics at Allahabad. As to the views of the States on the question of protection I quote again from the report of the Indian Fiscal Commission :—

“Leaving aside this question (of the division of the proceeds of revenue from customs), we found that the views of the States concided generally with the views which have been expressed to us in other parts of India. It is true that in one part of the joint memorandum it was said that, if the states were unable to secure any satisfaction of their claim to a share in the customs revenue, it might be to their advantage to keep that revenue as low as possible and therefore to advocate a system of free trade. But it was made clear in a later passage, and by our oral examination of Mr Mehta that the real view of the States was that for themselves as for the rest of India a policy of discriminating protection was the most suitable. Their final conclusion on this point is stated in the following words, ‘that discriminating protection must be resorted to for the good of the country’.”

The policy of protection was thus adopted by the Government of India for the good of the whole of India and not because it was supposed to be for the benefit of British India alone, and the interests of the States and State-subjects were specially kept in view. It is true that all parts of the country do not gain equally. Some provinces do not gain as much from protection as others. In the same way some States gain more and some little. But that is no reason against the adoption of a national policy of protection.

In connection with the interests of the State-subjects the Fiscal Commission remarked :—

“It appears to us that in their capacity as consumers they will have exactly the same safe-guards as the inhabitants of British India. The security of the consumer does not consist so much in any right of representation to the Tariff Board (though it is obvious that the subjects of Indian States should have exactly the same rights as the subjects of British India) as in the constitution of the Tariff Board itself.

It may be remarked here in paranthesis that Mr. N. Subba Rao of Mysore has been a member of the Tariff Board for one full term. In the opinion of the Fiscal Commission the security of the consumer lay in the appointment “of a Tariff Board of unimpeachable integrity and impartiality.”

“In this consists the security of the consumer, and the consumer in the Indian States will enjoy that security in exactly the same way as the consumer in British India.”

As to the special interests of the States from the point of view of production the Fiscal Commission also made regular provision :

“So far as industries in Indian States are concerned, they will be able to join in the representation made by the same industries in British India. It is, however, conceivable that in certain cases the main interest of an industry may be centred in an Indian State.” They give the instances of sandalwood oil industry in Mysore and the production of raw Silk in Kashmir and Mysore. “In such cases the industry concerned should have exactly the same opportunities for representing its cases before the Tariff Board as industries in British India, and we are sure that these representations would receive from



the Tariff Board the same careful attention as the representation made by industries located in British India "

In case of State industries "the State should represent the matter to the Government of India, and that the Government of India should then ensure that the fullest consideration was given to it by the Tariff Board."

It will be thus clear that the policy of protection was adopted for the benefit of India as a whole with full deliberation and after due consultation with the States and after safeguarding the interests of both British Indians and the peoples of the Indian States. As to a share in the increased revenue from customs, due to the adoption of a policy of protection, the Indian States are in a similar position to that of the British Provinces. As pointed out by the Butler Committee: "It is a central head of revenue in which the Provinces of India have no share." Technically then, the Indian States have no right to a share in the customs revenue or to any relief from the extra burden imposed for the benefit of India as a whole in which they stand to gain equally with British India. However, it appears to me that the matter deserves consideration from another point of view.

The Government of India stands in a very peculiar relation to the Indian States. It is the guardian of the true interests of the States and their peoples. Besides, the two Indias are geographically, economically, culturally—to sum up in one word, nationally—one, and the development of one part is of benefit to the whole and if help is needed to develop backward portions it should be

given ungrudgingly by the national government. It is in this spirit that I suggest that a portion of the proceeds from sea customs may be remitted to the States to enable them to improve the material condition of their peoples. In this connection I may point out that the Government of India has already granted a portion of the increase in the revenue from income-tax to the Provinces to meet the financial difficulties of such Provinces as Bombay. The vast majority of the States are very backward and with poor resources. The income of most of them is very small and the taxable capacity of the States is very limited. In view of these considerations and also of the existence of peculiar relationship between the Government of India and the Indian States and of the ties of nationality that bind the peoples of British India and the States, the remission of a part of the customs revenue to the States is advisable and justified. But it must be clearly stipulated that the money so foregone by British India will be used to promote the welfare of the peoples of the States and that it shall not go merely to swell the amount available to the Princes for personal expenditure. This condition has already been accepted by the Princes. In the resolution moved by H.H. the Maharaja of Patiala at the conference of Ruling Princes held in Bombay on the 20th April, 1928, one part runs as follows :—

“This meeting of Rulers and representatives of States’ Governments.....  
(c) Declares its resolve to devote to the moral and material

progress of the subjects of the States, the advantages resulting from the equitable adjustment of fiscal and economic issues."

There is, however, one further point that must be noted here in this connection. The attempt of both the Princes and the Butler Committee appears to be to make the demarcation between British India and the Indian States sharper and deeper than it is and to put as many obstacles as possible in the way of their ultimate union and in the path of British India's progress towards Dominion Status. If this be the case, no British Indian will be prepared to make any concession to the States to give even a pie of the customs revenue to the Indian Princes.

(3) As to the other items of all-India revenue it is not necessary to say much here, because they are unimportant even from the point of view of the States themselves. I agree generally with the arguments and conclusions of the Indian States Committee in regard to them. (a) To take the case of salt first: The part of the revenue from salt of which the States can claim a share, according to their own argument, is that derived from the sale of salt produced in Government works. This is, as pointed out above in the case of Railways, in the nature of commercial profits. And as stated by the Indian States Committee "The Government of British India has incurred large expenditure in establishing its monopoly and is, in our opinion, entitled broadly to the profits." In the total claim

of Rs. 10 crores salt provides Rs. 93 lakhs. (b) To take the case of revenue from Currency and Mints next: "In regard to this" the Butler Report says "we have been informed that as far as metallic currency is concerned it is doubtful whether there are any appreciable profits and that on the paper currency the profits are due to the credit of British India. The advantages of the imperial currency are so obvious that we do not think there is any substantial claim to any relief....." (c) As to income-tax the only complaint is that the relief which is at present being granted to the States is niggardly and ought to be increased. "If the justice of granting relief is acknowledged, there can be no reason for granting it in such a niggardly style," and I suggest that the relief be given in full instead of the present amount "of half the tax paid to the States." The amount involved is so small and indefinite that no figure is assigned to it in the total of Rs. 10 crores. It is not necessary to say anything in regard to the item of Rs. 39 lakhs from Excise Revenue except to quote the Butler Report that "no general question is raised in connection with excise" by the Princes.

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## CHAPTER VI.

### MACHINERY FOR CO-OPERATION.

#### I

The fourth claim of the Indian Princes is to have a voice in shaping the policy in regard to matters of common concern to British India and the Indian States. Their complaint is that at present their interests are completely ignored and that they have no opportunity of even placing their views before the Government of India and the Indian Legislature much less of having the chance of influencing their decisions.

It is no doubt true that there are certain matters, such as defence, tariffs, currency and exchange, transport and communications, opium, excise, salt, etc., decisions on which affect the States and which are at present made by the Government of British India alone. It is also true that the paramount position of the Government of British India entitles it to do so. But, whatever may be the rights of the Paramount Power and the treaty position of the Princes in this connection, equity demands that the interests of the States should be considered carefully and fully and that every opportunity should be offered to the States to place their views before the authorities in British India; and an attempt ought to be made to create proper machinery for the purpose. But as long as the Indian States are not

in a position to join British India in a real federation and the responsibility for defence and other all-India matters is with British India so long the power to make final decisions must inevitably remain with the authorities in British India.

The last complaint of the Indian Princes is that the Political Department of the Government of India acts arbitrarily and rides roughshod over their rights and that the Government of India acts as judge in cases of disputes between itself and the States. They, therefore, propose that an advisory council be associated with the Government of India to deal with matters relating to Indian States and that an impartial supreme court be created for deciding disputes between the States and the Paramount Power. It appears to me that there is force in the demand of the States for setting up better machinery than the one that exists at present for consultation and adjustment of disputes. It is, therefore, necessary to examine the present machinery and the proposals put forward—by the Princes and the Indian States Committee—to improve it, and to suggest modifications that may appear necessary.

## II

The Chamber of Princes was created in 1921 to provide machinery for consultation with the States. The Report on Indian Constitutional Reforms, 1918, had also suggested that the Viceroy may “arrange for joint deliberation and discussion between the Council of State and the

Council of Princes, or between representatives of each body."

The Chamber of Princes has been meeting every year since 1921. Its achievements are summed up in one sentence by its present Chancellor, His Highness the Maharaja of Patiala. "It was set up under conditions which made it almost useless for our purpose." And as it has already been pointed out several important Princes have refused to join the Chamber or to attend its meetings. All the same, as pointed out by H. H. the Maharaja of Patiala, it has "performed one useful purpose. It brought together to Delhi every year a very large number—usually some fifty or sixty—Rulers of Indian States" who met informally—not in the Chamber, but in the headquarters of the Standing Committee of the Chamber, in a rented building—to discuss "those matters which cannot find a place upon the rather stereotyped agenda of the Chamber." As far as the Chamber itself is concerned, it has proved a dismal failure. Its constitution, its methods of doing business, and the atmosphere prevailing therein have made the Chamber of little use either to the Princes or to the Government of India. However, neither the Princes nor the Indian States Committee have made any proposals to improve or reform the Chamber. They both propose to retain the Chamber as it is. The Butler Report lays it down "that the Chamber of Princes must for the present remain consultative ..... We have been often told that the system

is wrong but no alternative system has been suggested. We are convinced that the system is not greatly at fault, but some adjustment of it to modern conditions are required." But as far as the Chamber is concerned the Committee suggests no adjustments or modifications.

However, it appears to me that no Chamber of *Princes* can ever be a great success. In the first place, it is very difficult to induce all the Princes, especially the rulers of large and important States, to join the Chamber. Secondly, even among those who join there are bound to arise questions of order, precedence, importance, dignity, which will make harmonious and serious work very difficult. Thirdly, there are few Princes who are able to take part in the deliberations of the Chamber and who can speak *extempore* or discuss or debate subjects. Speeches written by others beforehand inevitably produce a lifeless, formal and unreal atmosphere and make it impossible to come to close grips with the subject. It is for these reasons that I believe that a Chamber of Princes as such is unsuited for the purpose the States have in view.—To them may be added two others:—(i) that the direct participation of the Princes in the work of the Chamber is injurious to the development of constitutional rule in the States, and (ii) that a well-attended Chamber of Princes must entail a very heavy expenditure on the resources of the States. I, therefore, propose that the present Chamber of *Princes* be substituted by a real Chamber of *States*.



It is not possible at present to suggest that the Chamber of States should consist of the elected representatives of the people in the States. As long as the people are not masters within the States they cannot expect to wield any power outside; and a body containing representatives of the States' subjects is bound to transform itself at this stage into something like the States' Subjects' Conference—a place for the airing of grievances against the Princes and for carrying on agitation in favour of constitutional rule in the States. Such a body can hardly carry any weight either with the authorities in British India or with those in the States. I, therefore, propose that the Chamber of States should consist of the representatives of the State Governments or *Darbars*. Each big State should send its Dewan or foreign minister and the smaller States may be represented in groups by a minister belonging to some State within the group. If the Chamber is reconstituted in this manner it shall be able to deliberate with knowledge and responsibility and with real earnestness, and it shall be in a position to help both the States and British India with really useful and valuable advice and guidance.

As to the functions of the reconstituted chamber: it is certainly true that, in the words of the Butler Report, they "must for the present remain consultative." As long as there is no real federation between British India and the States, the right to make decisions must remain with the Government of India, in the nature of things. But,

nevertheless, the functions which a real Chamber of States can perform are of great importance. They may be tentatively mentioned here :—

(1) To discuss questions affecting the interests of the States and to make recommendations to State Governments and if necessary to the Government of India in connection therewith.

(2) To discuss matters of common interest to the States and British India and to make representations and to give advice thereon to both the Government of India and the Indian Legislature.

(3) To give advice to the Government of India and the Indian Legislature on all matters referred by them to the Chamber.

(4) To obtain information from the Government of India on all matters that affect the States.

(5) To act generally as the guardian of State interests and by appointing a Standing Committee which shall be in close contact and association with the Political Department of the Government of India. The Chamber may appoint other Committees whenever necessary.

A Chamber of States constituted in the manner suggested above and performing such functions as those enumerated here is bound to acquire in a short space of time a position of great influence and power; and, although its resolutions may not be mandatory, they are bound to receive respectful and careful consideration.

## III

The Princes have been advocating since 1917—when their deputation had waited on Mr. Montague—the creation of a "Permanent Advisory Board" which "was to be associated with the Political Department" to put it in the words of H.H. the Maharaja of Patiala "in the management of the everyday relations between the States and the Crown in order to ensure that the Princes' point of view was adequately represented when policies were framed." It was in response to this that provision was made for the appointment of the Standing Committee of the Chamber whose chief function is to discuss with the various departments of the Government of India matters in which the administrations of both the States and British India are concerned.

The Princes are not satisfied with the working of this arrangement. The work of the standing Committee has been thus described by His Highness, the Maharaja of Patiala: "The Standing Committee has been supposed to be engaged along with the Political Department, in the standardization of Political Practice. But the process adopted has been such that we have not been able to make much progress. We found in practice that as soon as we had come to some tentative outlines of agreement with the Government of India, the opinions which that Government elicited, either from Provincial Government or from local Political Officers, were

such as to throw the whole thing into the melting pot once more. The upshot was, of course, equally unsatisfactory both to ourselves and to Government." The Indian States Committee, on the other hand, speaks with enthusiasm about the work of the Standing Committee and the system of consultation and collaboration with the Political Department. It writes: "Excellent results followed such consultation in the measures taken to codify political practice ..... of the twenty three or more points in dispute nine were settled satisfactorily to all concerned....." However, even the Butler Committee acknowledges that the procedure adopted was very defective. "Its success was arrested mainly because after discussion with the Standing Committee, the resultant conclusions were circulated to local governments and political officers for opinion with inevitable delay and reopening of questions." Thus, it is clear, that consultations between the Standing Committee and the Departments of the Government of India are capable of yielding good results especially if changes are made in the constitution of the Political Department as suggested below. In the past, wrong procedure has been responsible for reducing its utility. The conclusion of the Indian States Committee in this connection is sound and I endorse it fully :

"We think it vitally necessary that there should be in future constant, full and frank consultation between the Political Secretary and the Standing Committee of

the Chamber of Princes or their technical advisers, and in order that this may not be left to chance we recommend that there should be a fixed number of meetings on fixed dates not less than three in every year "

Before considering the changes that are needed in the constitution of the Political Department it is necessary to discuss the proposals that have been put by the Princes and others in connection with the conduct of day-to-day relations between the Government of India and the Indian States.

A scheme was prepared on behalf of the Standing Committee of the Chamber of Princes which was considered at a meeting of the Princes held in Bombay in April, 1928. This scheme was "strictly confidential" but it leaked out and was immediately published in India. The Butler Report refers to it in this wise:—"A scheme was published in India in April, 1928, purporting to represent the views of certain Princes. The publication at that time was unauthorised, but a scheme on similar lines was revised and put before us in the form adopted by the Council of European Association in their memorandum to the Indian Statutory Commission." The scheme is referred to as "our scheme" by H.H. the Maharaja of Bikaner in his speech of 8th September, 1928.

According to this scheme a new body—"The Indian States Council"—is to be created to deal with matters relating to Indian States, and common, all-India matters are to be decided by a "Union Council." The Indian States Council is to consist

of the Viceroy with three representatives of the States (either Princes or Ministers) two English members with no previous experience of India, and the Political Secretary. This is to be the Executive body in charge of the Political Department dealing with all matters affecting the interests of the States and is to work under and in close association with the Chamber of Princes and its Standing Committee. The Union Council is merely the Indian States Council and the Executive Council of British India in joint session for dealing with matters of common concern.

This scheme of double diarchy is based on two wrong presumptions: (1) That British India has nothing to do with the States and that the relations of the Princes are with the British Crown; and (2) that the Indian States form a single political unit with a legislature in the shape of the Chamber of Princes and an executive in the form of the Indian States Council. Those who have read the preceding pages need not be told that both the presumptions are without any foundation. Indian States are a large and heterogeneous mass without a semblance of unity and they are connected with British India by many and, it appears, indissoluble ties. However, leaving aside these wrong presumptions the scheme to set up two new bodies is both cumbersome and impractical. The Butler Committee points out:—

“The objections to this scheme, apart from any

question of its cost, are many. The following only need be mentioned :—

- (1) It would put the Viceroy out of touch with the Princes, a matter to which, as already stated, the Princes attach the greatest importance.
- (2) British India could hardly be expected to join the States on the basis of equal voting power in view of their relative size and population, not to mention any question of relative advancement
- (3) A Prince could hardly join an executive body of the kind proposed without ceasing for the time to be ruler in his own State ; and many Princes would object to be placed under other Princes or ministers of their own or other States
- (4) There would be quite insufficient work for such a body since the number of cases of any real importance arising in a year are very few.
- (5) Such a Council would inevitably lead to greater intervention in the internal affairs of individual States, especially of the smaller States.
- (6) There would be a large surface of possible conflict between the new States Council and the existing Chamber of Princes and its Standing Committee. This is recognised but not sufficiently provided for by the safeguards of the scheme "

It is not necessary to comment on the points raised by the Indian States Committee in connection with the Princes' scheme ; but it is essential to add that the defects of the scheme are much more fundamental. As long as a true federation does not come the right to decide questions of all-India

concern cannot be given up by British India. Moreover, no one in British India nor indeed any one who believes in responsible government can for a single moment contemplate the possibility of granting the power to an executive body—even if it be a double one—of deciding all matters of common concern to British India and the Indian States. The Union Council cannot be given any such authority. Indeed the whole scheme is fantastic, grandiose, and unworkable.

The Indian States Committee consider the present system generally satisfactory. In their opinion it is only necessary to make minor adjustments to modern conditions. There are three modifications which they suggest:—(1) "That in future the Viceroy—not the Governor-General in Council as at present—should be the agent for the Crown in all dealings with the Indian States;" (2) That the Viceroy may appoint Committees in matters of common concern on which "both British India and the States may be represented" to advise him; and (3) That political officers should be separately recruited "from the Universities in England for service in the States alone."

It is necessary to examine each of these suggestions separately.

(1) The first change suggested is in the agency of control—from the Governor-General in Council to the Viceroy alone. Its real object is to deprive British India of its Paramount Position and to accen-



tuates the separatist tendencies of the Indian States. It is designed to give substance to the unreal theory of direct relations with the Crown and to hitch the car of the States permanently to the British chariot. It is planned to put insurmountable barriers in the way of the ultimate union between British India and the Indian States. However, the Committee claims three distinct advantages for the change. It writes :

"This change will require legislation but it will have three distinct advantages, first it will gratify the Princes to have more direct relations with the Crown through the Viceroy, secondly it will relieve them of the feeling that cases affecting them may be decided by a body which has no special knowledge of them, may have interests in opposition to theirs, and may appear a judge in its own cause; and, thirdly it will, in our opinion, lead to much happier relations between the States and British India, and so eventually make coalition easier "

As far as the theory of direct relations is concerned it is not necessary to say anything here as it has been discussed at great length in Chapter II above. But it is necessary to point out the constitutional difficulties involved in the transfer of relationship between British India and the Indian States to the Viceroy alone. The Inter-Imperial Relations Committee's Report states clearly that the Agent of the Crown in a Dominion is not the Governor-General but the Prime Minister of that Dominion; that the channel of communication between the British Government and the government of a Dominion is the Prime Minister of that Dominion; and

that the Governor-General is to be merely the nominal or constitutional head of the Dominion without any administrative duties and functions except to set the machinery of Parliamentary Government into motion, whenever there is a stoppage or deadlock. The experiment of combining constitutional and administrative functions in one person has proved a failure. Under Dominion Status the Viceroy will not be the agent of the Crown in matters governmental—all governmental functions will be performed by His Majesty's ministry in India on behalf of the Crown, though the Viceroy may represent the Crown in ceremonial functions, etc. It is not to the interest of British India nor will it make for the success of Parliamentary Government to entrust the Viceroy with any governmental functions, such as the conduct of the relations with the Indian States. The Viceroy must become, if Dominion Status is to be real, a purely constitutional head like the Dominion Governors-General and must not be entrusted with any governmental work.

It is certainly surprising to read that the Viceroy possesses more "special knowledge" of conditions in Indian States than the Governor-General in Council. It is a well recognised fact that of all persons in the Executive Council of the Government of India—and this will surely be much more so when the Council will become the Indian Ministry—the Viceroy is the most ignorant of things Indian and conditions prevailing in "British" or "Indian" India. It was, I believe, the present Premier of England who

wrote that the Viceroy of India takes the first two years of his term in settling down and learning things and during the last two years he is busy making preparations for leaving the country. How can he compete with Indian public men—who will form the Indian Ministry under Dominion Status—in respect of knowledge of conditions in India? It is, therefore, not true to say that the relations with the Indian States will be conducted with more special knowledge when they are carried on by the Viceroy alone. But what will surely happen will be that the Political Department will become even more powerful than it is. The real power in that case will pass more and more into the hands of the Political Secretary. This in fact is the opinion of the Committee itself, if one is to read between the lines, as the phrase is. The Committee writes:—"It has been represented to us that the pay and precedence of the Political Secretary should be raised so as to give him a special position among the Secretaries to Government and thus assist him to approach other departments with added weight and authority." As a matter of fact what the Committee appears to have in mind is to make the Political Secretary a member in charge of the relationship with the States in all else but the name.

As to the feeling that matters affecting the States are "decided by a body which . . . may have interest in opposition to theirs and may appear a judge in its own cause;" it can only be removed by a true federation between British India and the

Indian States. As long as final decisions are made by British India this feeling is likely to remain and the transfer of relations to the Viceroy alone in name but in reality to the Political Secretary cannot mend matters. Moreover, such an argument ill-fits a Committee which has rejected the proposal of the Princes to institute a supreme Court and has insisted that the right of giving a decision in any case must remain with the Paramount Power and that it cannot be delegated to any body, committee or tribunal.

The third argument put forward by the Committee is still more difficult to accept. The transfer of the relationship directly to the Crown and the agency of control to the Viceroy alone will, according to the Indian States Committee, "lead to much happier relations between the States and British India and so eventually make coalition easier." If there is one point on which the readers of the Butler Report are agreed it is that the recommendations of the Committee are of a separatist type. They have attempted to separate British India and the Indian States into two distinct entities, each having nothing to do with the other, with a high, unscalable wall—"the Chinese Wall" as Sir Tej Bahadur Sapru has characterised it between them. It is really difficult to understand as to how the transference of the agency of control to the Viceroy alone will make the coalition between the Indian States and British India easier. It is exactly the reverse of what all others expect from such a transfer.

Thus the advantages claimed by the Indian

States Committee for their proposal to transfer the agency of control to the Viceroy alone are all unreal. On the other hand the proposal has two distinct drawbacks; (1) It will have the effect of concentrating all power in the hands of the Political Secretary; and (2) it will place difficulties in the way of the Viceroy's becoming a purely constitutional head and thus endanger the success of the Parliamentary experiment.

(2) The second change suggested by the Indian States Committee is a desirable one. Common committees on which both States and British India are represented to advise on matters that equally affect both are to be encouraged. They are bound to remove distrust and suspicion and are sure to prove of considerable help in the solution of difficult points. Co-operation on such committees will pave the way for ultimate union or federation.

(3) The third proposal of the Committee is to institute a separate service of Political Officers recruited direct from the universities in England. At present Political Officers are recruited from the Indian Civil Service and the Indian Army. "These sources of supply are now limited." Moreover the Political Officers are themselves of opinion "that the time has come to recruit separately from the universities in England for service in the States alone." There is certainly no harm in instituting a separate service of Political Officers for the States and the Political Department and there is everything to be

gained by giving them proper training when appointed. But no reason has been assigned as to why the recruitment should be confined to youngmen from the universities in England. If youngmen from the Indian universities can enter the Indian Civil Service, Imperial Police Service and various other All-India Service, there is no reason why the recruitment to the new service should be confined to graduates of English universities alone. The conditions for entry into the new service ought to be such that both British and Indian youths have an equal access to it and every care should be taken to recruit proper men and to give them the requisite training for their work. It is certainly true that "the position of a political officer is by no means an easy" one. "It calls for great qualities of character, tact, sympathy, patience and good manners." But the time is past when people could believe that these qualities can only be found in graduates of English universities or that they are altogether absent in the products of Indian universities. So, there is no objection to the institution of a new service for Political Officers alone provided it is open to British and Indian youths alike and on equal terms. There is a suspicion in the minds of many Indians that this is merely a device to keep out Indians from the service of Political Officers, especially in view of the fact that the Indian Civil Service is being steadily Indianised and there is every chance that the Indian army will be officered more and more by Indians as time passes. Every care should be taken that the

progress of Indianisation is not checked in this indirect manner.

Such are then the proposals of the Princes and the Indian States Committee in regard to the machinery for the conduct of day-to-day relations between the Government of India and the Indian States and for deciding questions of All-India concern. In my opinion, if the Political Department be placed under a person with special knowledge of Indian States and with sympathy towards the States, consultations and co-operation between the Political Department and the Standing Committee of the Chamber of States can achieve a great deal. What is necessary is not so much the creation of new advisory committees or new diarchical councils or new services of political officers or the transfer of the agency of control to new hands but the infusing of a new spirit into the working of the Political Department and the giving of a new orientation to the policy of this Department. And, in my opinion, this can be done only by placing the Political Department under a political head—a new member of the Viceroy's Executive Council—who possesses special knowledge and experience of Indian States and sympathy with the Princes and peoples of the States. There is no dearth of such men. To name only a few, I may mention: Sir Ali Imam, Mirza Ismail, Sir Manubhai Mehta, Sir Prabha Shanker Pattani, Sir M. M. Visweswaraya, Colonel Haksar, Sir Albion Bannerjee, Dr. Rushbrook Williams. If such a person is put in charge of the Political Department

and the relations with the Indian States, and is given a seat on the Executive Council, most of the complaints of the States are bound to disappear—especially when it is remembered that a very large number of the difficulties at present experienced are due to the unsympathetic and ununderstanding attitude of the Political Secretary and his subordinates. It is also suggested that there should be a Parliamentary Secretary—with knowledge and experience of administration in a State—to help the Member-in-Charge in his work. The Parliamentary Secretary will have a seat in the Chamber of States and will act as a link between the Chamber and the Government of India and the Indian Legislature. He should give full information to the members of the Chamber of States and should keep his Chief informed of the views of the Chamber. The Member-in-Charge will have a seat on the Indian Legislature and will keep it duly informed of matters relating to Indian States.

The Indian States Committee remarks in this connection: "At different times in the last thirty years and more a proposal has been considered that there should be a political member of the Governor-General's Council." The proposal made above is certainly different in form and in intention than the one considered before and by the Butler Committee. But still it is worthwhile to examine the views expressed by the Committee in connection therewith. It says:—

"There are two main objections to this proposal:



(a) that the Princes attach great importance to direct relations with the Viceroy as representing the Crown ,  
(b) that the appointment of a political member would still leave the states in a large minority in the voting power of the council. Objection (a) is, in our opinion, insurmountable. Once a political member of the Governor-General's Council is appointed direct personal relations with the Viceroy will inevitably decline. Objection (b) is to some extent met by a proposal to have two or more political members of the Governor General's Council. This remedy would increase the difficulty under (a) and there would not be enough work for more than one political member, let alone any question of the effect on British India of such a radical alteration of the existing constitution. After careful consideration we are unable, as others before us have been unable, to recommend the creation of a political membership of Council. The disadvantage of any such proposal in our opinion outweigh the advantages. We are greatly impressed by the importance which the states attach to direct relations with the Viceroy and by the immense value of the Viceroy's personal influence with the Princes "

Of the two objections urged by the Committee the second one is besides the mark. The member in charge of Political Department is not to be a representative of the States. He is to be a member of the Government of India in charge of the relations with the States. So there is no question of minority or majority that has been raised by the Committee. On account of his special knowledge and sympathy with the States the Council Member is expected to deal with them in a much better spirit than a bureaucratic Political Secretary. As to the first objection it is mostly sentimental and much more in the imagination of the members of the Committee than in the

heads of the Princes. The Committee itself has objected to the scheme of the Princes on the ground that "it would put the Viceroy out of touch with the Princes." If they had really attached such great importance to the direct relations with the Viceroy as the Committee imagines they do the Princes would not have put forward the proposal of creating an Indian States Council.

It is, therefore, not true to say as the Committee does that the disadvantages of the proposal outweigh the advantages. On the other hand there are no serious disadvantages at all; and I hold that the creation of an extra-membership of the Executive Council and the addition of a Parliamentary Secretary for dealing with the relations with the States will be a great improvement on the existing arrangements and will go a long way to ease the situation. Of course, the ultimate solution of the difficulty can come with a true federation between the States and British India. It is only then that the States can take their due share in arriving at decisions in regard to matters of All-India concern.

#### IV

The Montague-Chelmsford Report had recommended a procedure for the appointment of Arbitration Committees in cases of disputes between States and States, and States and British India. The Report says :—

"Our next proposal is concerned with disputes which may arise between two or more States or between a

State and a local Government or the Government of India, and with a situation caused when a State is dissatisfied with the ruling of the Government of India or the advice of any of its local representatives. In such cases there exists at present moment no satisfactory method of obtaining an exhaustive and judicial enquiry into the issues, such as might satisfy the States, particularly in cases where the Government of India itself is involved, that the issues have been considered in an independent and impartial manner. Whenever, therefore, in such cases the Viceroy felt that such an enquiry was desirable we recommend that he should appoint a Commission on which both parties would be represented, to inquire into the matter in dispute and to report its conclusions to him. If the Viceroy were unable to accept the finding, the matter would be referred for decision by the Secretary of State. The Commission that we have in mind would be composed of a judicial officer of rank not lower than a High Court Judge and one nominee of each of the parties concerned.

This procedure was accepted by the Government of India in its resolution No. 427-R. of the Foreign and Political Department, dated the 29th October, 1920, but "has never been acted upon." H. H. the Maharaja of Patiala has made the following comment in this connection :—

"Since the time when the resolution was issued, there have been several cases which, to an outsider like myself, might have seemed very proper to be referred to an impartial body, identified with the interests neither of Government nor of the States. But in no case has a tribunal been appointed, and Government has preferred to give the final word itself."

The Butler Committee has expressed regret that the procedure adopted in the Resolution of 29th October, 1920, has not been employed by the

Government of India and recommends its free use in future :—

“We attach the greatest importance to the free adoption of this procedure in current cases. It will, in our opinion, satisfactorily dispose of all ordinary differences of opinion as they arise.”

The Princes, however, are no longer satisfied with this procedure. They have asked for the appointment of a Supreme Court for the purpose. In the scheme of April 1928, the provision runs as follows :—

“The Union Supreme Court represents the logical development of the Princes’ original idea of a Court of Arbitration. It will be staffed by a Chief Justice and two other judges appointed for life on high salaries, selected from the best men in Great Britain.

Its functions will consist, generally, of providing an impartial tribunal to which constitutional and other justiciable matters in dispute can be referred, subject to the approval of the Privy Council.....”

It is, however, the opinion of the eminent Counsels of the Princes of the Standing Committee that, “disregarding all political considerations, there is no legal obligation upon the Crown to provide machinery for independent adjudication. Each State, when ceding paramountcy, obtained from the Crown by agreement certain undertakings, express or implied, but in our view this was not one, and cannot be implied. The States merely relied upon the Crown to carry out its undertakings.”

It is no doubt true that the Paramount Power has the right to give final decisions in regard to all

disputes between the States and itself and to adjudicate between States and States. It is not my intention to question the decisions given by the Government in the past; but, it seems to me, that it is very desirable to remove all appearances of suspicion and to submit all cases of disputes—on justiciable matters—to an independent tribunal or Supreme Court. In the administration of Justice no distinction between the Paramount Power and the Subordinate States is morally valid; and the decision by an impartial tribunal is the best method for settling disputes. In any case, it is not right that a party to the case should also be the authority to try and decide the case. It is against all canons of justice. It is for this reason that—as pointed out by H. H. the Maharaja of Bikaner—"the British Indian leaders and the States are of one mind in regard both to the necessity and the justice of appointing . . . . a Supreme Court." The provision in the Nehru Report runs as follows:—

"In cases of differences between the Commonwealth and an Indian State on any matter arising out of treaties engagements, sanads or similar other documents, the Governor-General in Council may, with the consent of the State concerned, refer the said matter to the Supreme Court for its decision . . . We need scarcely point out that we anticipate that the judges of the Supreme Court will be men of the highest legal training, character and judicial independence."

The demand of the Princes for the creation of a Supreme Court is thus recognised as just by British Indian leaders and should be conceded by

the Government of India. If the British Government considers it necessary it may be provided that the decisions of the Supreme Court will be in the form of recommendations to the Governor-General in Council like the decisions of the Judicial Committee of the Privy Council, but on the clear understanding that the decisions will be adhered to or referred in the last resort to the Judicial Committee of the Privy Council.

## V

The Indian States Committee has feelingly referred to the "grave apprehension" felt by the Princes in view of the impending changes in the Government of British India and the possibility of a dominion government being established therein; and has recorded its "strong opinion that, in view of the historic nature of relationship between the Paramount Power and the Princes, the latter should not be transferred without their own agreement to a new relationship with a new government in British India responsible to an Indian legislature." Leaving aside the question as to whether the establishment of dominion government will or will not involve any change in the Paramount Power it may be pointed out that no one in British India wishes to force the Princes to a "new relationship" without their agreement. It is for this reason that the Nehru Report provided that:—

"(a) All treaties made between the East India Company and the Indian States and all such

subsequent treaties, so far as they are in force at the commencement of this Act, shall be binding on the Commonwealth.

- (b) *The Commonwealth shall exercise the same rights in relation to and discharge the same obligations towards, the Indian States as the Government of India exercised and discharged previous to the passing of this Act "*

It is only fair that if any "*new relationships*" are to be entered into between any parties it should be done by mutual consent and agreement. In this connection attention may be drawn to the invitation sent by Pandit Motilal Nehru, as President of the All Parties Committee to draft a constitution for India, to the Princes to meet the Committee for the discussion of the question of future relationship between British India and the Indian States. In the foregoing pages an attempt has been made to offer suggestions towards the settlement of a new relationship for the transition period—till the time the Indian States become ripe for the federal solution.

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## CONCLUSION.

In the foregoing pages an attempt has been made to examine the delicate, difficult and complex problem of the future relations between British India and the Indian States. I have studied and discussed the problem from the scientific but not merely academic standpoint. And every effort has been made to make the conclusions practical. For the sake of convenience the conclusions may be summarised here :—

(1) That a true federation between British India and the Indian States is impractical in the near future. The goal of an Indian Federation, embracing British India and the Indian States is desirable but cannot be achieved until (i) the very large number of uneconomic States—those that cannot support an up-to-date and an efficient system of administration—are eliminated; and (ii) a system of constitutional rule is established in the States.

(2) That the theory of direct relationship with the Crown is untenable and that the actual relations of the Indian States have been and are with the Government of India.

(3) That the Indian States are not "Sovereign" in any true sense of the term and that the use of the terms "sovereign" and "sovereignty" in relation to them is confusing and should be avoided.

(4) That a clear distinction should be drawn by the Government of India and observed by it in



practice between the large States with full civil and criminal jurisdiction and small states without even judicial autonomy.

(5) That the Government of India should not interfere in the internal affairs of large States unless the interests of the people in the States or considerations of peace and order make intervention absolutely necessary.

(6) That in view of the peculiar relations of over-lordship existing between the Government of India and the Indian States and in view of the close ties that bind the people of British India with the inhabitants of the States a share of the customs revenue be given to the States, and the money so received by them should be spent on improving the moral and material condition of the State-subjects.

(7) That so long as there is no real federation the Government of India must continue to be the final and paramount authority in all matters of all-India concern; but that every opportunity and facility be provided to the Indian States for placing their views before the authorities in British India.

(8) That it is necessary to provide new machinery for consultation, co-operation and settlement of disputes as follows:—

(i) That in place of the Chamber of Princes a Chamber of States, consisting of the representatives of State Governments, be created.

(ii) That a person with knowledge and experience of Indian States and

possessing sympathy with them be placed in charge of the Political Department and matters relating to Indian States and that he be made an ordinary member of the Governor-General's Council.

- (iii) That the member in charge of the Political Department be assisted by a Parliamentary Secretary who has knowledge and experience of administration in Indian States, who shall act as the connecting link between the Chamber of States and the Political Department, the Indian Legislature and the Government of India.
- (iv) That the Chamber of States should appoint a Standing Committee for consultation and co-operation with the Political Department in the conduct of day-to-day relations with the States.
- (v) That the Governor-General in Council may appoint common committees—on which both British India and the States are represented to advise it on matters that equally affect both British India and the States.
- (vi) That a permanent Supreme Court, consisting of properly qualified judges, be

created for the settlement of constitutional questions and the justiciable matters of dispute.

(9) That every effort should be made to bring the two Indias together so that it may become possible in the not too distant future to have a real federation between British India and the Indian States.

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## APPENDIX A

### SPECIMENS OF TREATIES, ENGAGEMENTS AND SANADS.

The specimens given below have been selected for their illustrative value. Care has been taken to illustrate each period of history and each type of transaction. And the texts have been taken from Aitchinson's Collection, 1909 edition.

(1) Treaty of Offensive and Defensive Alliance between the East India Company, the Nizam and the Peishwa, dated 4th July 1700.

"TREATY OF OFFENSIVE and DEFENSIVE ALLIANCE between the HONOURABLE UNITED ENGLISH EAST INDIA COMPANY, the NAWAB AUSUPH JAH BAHADOOR, SOUBADAR of the DECCAN, and the PEISHWA SEWOY MADIHO RAO NARAIN PANDIT PRUDHAN BAHADOOR against FUTTI ALI KHAN, known by the denomination of TIPPOO SULTAN, settled by CAPTAIN JOHN KENNAWAY on the part of the said HONOURABLE COMPANY, with the said NAWAB AUSUPH JAH, by virtue of the powers delegated to him by the RIGHT HONOURABLE CHARLES EARL CORNWALLIS, K.G., GOVERNOR-GENERAL IN COUNCIL, appointed by the HONOURABLE the COURT OF DIRECTORS of the said HONOURABLE COMPANY to direct and control all their affairs in the EAST INDIES.

#### ARTICLE I.

The friendship subsisting between the three States agreeable to former Treaties shall be increased by this, and between the Honourable Company and His Highness the Nizam, the three former Treaties concluded with the late Salabut Jung, through Colonel Ford, in the year 1759, with the Nizams through General Calliaud in the year

1766, and the Treaty of 1768 with the Madras Government, together with Lord Cornwallis's letter of the 7th July 1789, which is equivalent to a fourth Treaty, remain in full force, except such Articles of them as may by the present Treaty be otherwise agreed to, and perpetual friendship shall subsist between both parties and their heirs and successors agreeably thereto.

#### ARTICLE 2.

Tippoo Sultan, having engagements with the three contracting powers, has notwithstanding acted with infidelity to them all, for which reason they have united in a league, that to the utmost of their power they may punish him and deprive him of the means of disturbing the general tranquility in future

#### ARTICLE 3

This undertaking being resolved on, it is agreed that on Captain Kennaway's annunciation to the Nawab Ausuph Jah of the actual commencement of hostilities between the Honourable Company's force and the said Tippoo, and on Mr Malet's announcing the same to Pundit Prudhan, the forces of the said Nawab Ausuph Jah and Pundit Prudhan, in number not less than 25,000, but as many more and as much greater an equipment as may be, shall immediately invade the territories of the said Tippoo, and reduce as much of his dominions as possible before and during the rains, and after that season the said Nawab and Pundit Prudhan will seriously and rigorously prosecute the war with a potent army, well appointed and equipped with the requisite warlike apparatus.

#### ARTICLE 4.

If the Right Honourable the Governor-General should require a body of cavalry to join the English forces, the Nawab Ausuph Jah and Pundit Prudhan shall furnish to the number of 10,000 to march in one month from the time of their being demanded by the shortest and safest

route with all expedition to the place of their destination, to act with the Company's forces; but should any service occur practicable only by cavalry they shall execute it, nor cavil on the clause of "To act with the Company's forces." The pay of the said cavalry to be defrayed monthly by the Honourable Company at the rate and on the conditions hereafter to be settled.

#### ARTICLE 5.

If in the prosecution of the war by the three allies, the enemy should gain a superiority over either, the others shall to the utmost of their powers exert themselves to relieve the said party and distress the enemy.

#### ARTICLE 6.

The three contracting powers having agreed to enter into the present war, should their arms be crowned with success in the joint prosecution of it, an equal division shall be made of the acquisition of territory, forts and whatever Circar or government may become possessed of from the time of each party commencing hostilities; but should the Honourable Company's forces make any acquisitions of territory from the enemy previous to the commencement of hostilities by the other parties, those parties shall not be entitled to any share thereof. In the general partition of territory, forts, etc., due attention shall be paid to the wishes and convenience of the parties relatively to their respective frontiers.

#### ARTICLE 7.

The under-written polygars and zemindars, being dependent on the Nawab Ausuph Jah and Pundit Pradhan, it is agreed that on their territories, forts, etc., falling into the hands of any of the allies, they shall be re-established therein, and the nuzzurana that shall be fixed on that occasion shall be equally divided amongst the allies. But in future the Nawab Ausuph Jah and Pundit Pradhan shall collect from them the usual pesheush and kundnee which have been heretofore annually collected,

and should the said polygars and zemindars act unfaithfully towards the Nawab or Pundit Prudhan, or prove refractory in the discharge of their peshcush and kundnee, the said Nawab and Pundit Prudhan are to be at liberty to treat them as may be judged proper. The Chief of Shanoor is to be subject to service with both the Nawab and Pundit Prudhan, and should he fail in the usual condition thereof, the Nawab and Pundit Prudhan will act as they think proper.

*List of the Polygars and Zemindars*

Chittledroog	Cunnagheery
Annugoondy.	Kittoor.
Henponelly.	Hannoor.
Billaree.	The district of Abdul
Roydroog.	Hakeem Khan, the Chief
Heychungoondah	of Shanoor.

ARTICLE 8

To preserve as far as possible consistency and concert in the conduct of this important undertaking, a vakeel from each shall be permitted to reside in the army of the others, for the purpose of communicating to each other their respective views and circumstances, and the representations of the contracting parties to each other shall be duly attended to consistent with circumstances and the stipulations of this Treaty.

ARTICLE 9.

After this Treaty is signed and sealed, it will become incumbent on the parties not to swerve from its conditions at the verbal or written instance of any person or persons whatever, or on any other pretence; and in the event of a peace being judged expedient, it shall be made by mutual consent, no party introducing unreasonable objections, nor shall either of the parties enter into any separate negotiations with Tippoo, but on the receipt of any advance or message from him by either party, it shall be communicated to the others.

## ARTICLE 10.

If after the conclusion of peace with Tippoo he should attack or molest either of the contracting parties, the others shall join to punish him, the mode and conditions of effecting which shall be hereafter settled by the contracting powers.

## ARTICLE 11.

This Treaty, consisting of eleven Articles, being this day settled and concluded by Captain John Kennaway with His Highness the Nawab, Captain Kennaway has delivered to His Highness the Nawab one copy of the same in English and Persian, signed and sealed by himself; and the Nawab has delivered to Captain Kennaway another copy in Persian, executed by himself, and Captain Kennaway has engaged to procure and deliver to the Nawab in sixty-five days a ratified copy from the Governor-General, on the delivery of which the Treaty executed by Captain Kennaway shall be returned.

*Signed, sealed, and exchanged at Paungul, on the 20th of Shawaul, 1204 Hegira, or 4th July 1790 E.S.*

Ratified by the Governor-General in Council, the 29th day of July 1790.

Honourable Company's Seal.
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(Sd.) CORNWALLIS,  
 „ CHARLES STUART,  
 „ PETER SPEKE,  
 „ E. HAY,  
*Secretary to Government.*

(Pages 46 to 49 Aitchison's Collection. Vol. IX.)

(2) Definitive Treaty of General Defensive Alliance with the Gackwar, dated 21st April, 1805.

DEFINITIVE TREATY of GENERAL DEFENSIVE ALLIANCE between the HONOURABLE ENGLISH EAST INDIA COMPANY on the one PART, and the MAHARAJAH ANUND RAO GUIKWAR SENA KHAS KHEYL SHUMSHER BAHADOOR and his



CHILDREN, HEIRS and SUCCESSORS on the other, settled by MAJOR ALEXANDER WALKER, RESIDENT AT BARODA, having full powers from the GOVERNMENT OF BOMBAY, which is in like MANNER authorized by HIS EXCELLENCY the MOST NOBLE RICHARD, MARQUIS WELLESLEY, KNIGHT of the MOST ILLUSTRIOUS ORDER of ST. PATRICK, one of HIS BRITANNIC MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, GOVERNOR GENERAL IN COUNCIL, appointed by the HONOURABLE the COURT of DIRECTORS to direct and control all their AFFAIRS in the EAST INDIES,—1805

Whereas various agreements have been concluded between the Honourable Company on the one part, and Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor on the other, all tending to improve and increase the friendship and alliance between the contracting parties, viz., a convention dated at Cambay, the 15th March 1802, settled by the Governor of Bombay on the part of the Honourable Company, and by Raojee Appajee, Dewan on the part of Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor; an agreement, dated at Cambay, the 6th June 1802, settled by the Governor of Bombay on the part of the Honourable Company, and by Raojee Appajee, Dewan, on the part of Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor; and an agreement made by Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor with Major Alexander Walker, Resident at Baroda, on the part of the Honourable Company, dated at Baroda, the 29th July 1802, and whereas it is desirable to consolidate the stipulations of all these separate engagements with one definitive Treaty, and further to improve the state of alliance of the contracting parties, in like manner as has been applied for by the aforesaid Raojee Appajee, in his letter of the 10th of Suffer (or 12th June 1803), desiring that the present engagement between the Honourable Company and the

Guikwar State may be drawn up in terms consonant to those employed in the Treaty of Bassein between the Honourable Company and His Highness the Peishwa, the said Company and the Maharajah Annund Rao Guikwar Sena Kheyl Shumsher Bahadoor do hereby accordingly agree to the following Articles framed for that purpose :—

#### ARTICLE 1.

All the stipulations of the engagements heretofore made between the contracting parties, and above recited, *viz.*, on the 15th of March, 6th June, and 29th July 1802, are hereby confirmed, and are to bind the contracting parties, their heirs and successors, for ever.

#### ARTICLE 2.

The friends and enemies of either party shall be the friends and enemies of both ; and if any power shall commit any act of unprovoked hostility or aggression against either of the contracting parties, or against their respective dependants or allies, and after due representation shall refuse to enter into amicable explanation, or shall deny the just satisfaction which the contracting parties shall have required, the contracting parties will proceed to prosecute such further measures as the case shall appear to demand.

#### ARTICLE 3.

Whereas, in conformity to the agreements heretofore made between the Honourable Company and the Maharajah Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, a subsidiary force of two thousand men was subsidized, and inclusive of the half augmentation of the subsidiary force first fixed upon, the Maharajah Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor agrees to receive, and the Honourable Company to furnish, a permanent subsidiary force of not less than three thousand regular native infantry, with one company of European artillery, and their proportion, *viz.*, two

companies of gun-lascars, with the necessary ordnance, and warlike stores and ammunition, which force is to be stationed in the territories of the said Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor

#### ARTICLE 4.

The subsidiary force will at all times be ready to execute services of importance, such as the protection of the person of Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, his heirs and successors, the over-awing and chastisement of rebels and excitors of disturbance in his territories, and the due correction of his subjects or dependants who may withhold the payment of the Sircar's just claim, but it is not to be employed on trifling occasions, nor like sehundy, to be stationed in the country to collect the revenue. One battalion of these forces, however, or such a proportion of them as the performance of the foregoing services may require, will proceed to Kattywar when there may be a real necessity for it, but the English Government, whose care and attention to all the interests of the Guikwar State cannot be doubted, must remain the judge of this necessity.

#### ARTICLE 5

In order to provide the regular payment of the whole expense of this subsidiary force Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor has ceded, by the agreements aforesaid, viz, dated the 15th March, 6th June and 29th July 1802, and 2nd June 1803, districts and other funds, of which a Schedule (A) is annexed to this treaty of the yearly net value of Rupees 11,70,000. This cession is confirmed by this Treaty, and Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor hereby cedes the districts of which the Schedule is annexed, with all the rights of sovereignty thereof, and all the forts which they contain, in perpetuity, to the Honourable Company.

#### ARTICLE 6.

The districts of Chowrassee, Chickly, Surat, Chouth, and Kaira have been ceded to the Honourable Company

by Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor as a proof of his friendship, and as a testimony of his sense of the benefit which he has received from his alliance with the Honourable Company's government. The cession of these districts is confirmed by the Treaty, and Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor hereby cedes the districts above mentioned, with all the rights belonging to the sovereignty thereof, and all the forts which they contain, in perpetuity, to the Honourable Company.

#### ARTICLE 7.

Whereas the Honourable Company have at different periods assisted Annund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, both from their own funds and those of bankers, with advances of money, a particular account of which, as well as of the funds assigned for the payment of the same, is contained in the Schedule annexed, marked B, it is hereby agreed that the full amount of the russud of the districts therein named, according to the provisions in the eighth Article of the agreement of the 29th July, shall be collected on account of the Honourable Company, and the persons therein referred to, until these debts and interest due upon them shall be fully paid ; and for the past or any future advances which the Company's government may make to that of the Guikwar, mehals shall be assigned as their security.

#### ARTICLE 8.

Grain, and all other articles of consumption and provisions, all sorts of materials for wearing apparel, together with the necessary numbers of cattle, horses, and camels required for the use of the subsidiary force shall be exempted from duties in the territories of Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, and the commanding officer and the officers of the subsidiary force shall be treated in all respects in a manner suitable to the importance of the trust placed in them and the dignity of the British Government. In like manner shall the officers

of the Guikwar Government meet with similar consideration and respect from the Honourable Company in consideration, also, of the good-will and friendship which has so long happily subsisted between the Honourable Company and the Guikwar Government, such goods and articles as may be *bonâ fide* required for the private use or consumption of that family, or of the ministers, shall be allowed to be purchased at Surat and Bombay, and to be sent from thence free of duties, on being accompanied by a passport from the Resident at Baroda.

As the Deccan is the native country of the Maharattas, who inhabit or serve in Guzerat, such of this nation as may be in the Guikwar service shall be allowed to pass and repass freely, with their families, through the Honourable Company's territories

It is expressly understood that the admission of this Article is not to sanction, or in any shape to authorize, the transit of merchandize or of prohibited goods.

#### ARTICLE 9.

The Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor hereby engages that he will not entertain in his service any European or American, or any native of India, subject of the Honourable Company, without the consent of the British Government; neither will the Company's government entertain in their service any of the Guikwar servants, dependants, or slaves, contrary to the inclination of that State.

#### ARTICLE 10.

Inasmuch as by the present Treaty the contracting parties are bound in an alliance for mutual defence and protection, Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor engages never to commit any act of hostility or aggression against any power whatever; and in the event of difference arising, whatever adjustment the Honourable Company's government, weighing matters in the scale of truth and justice, may, in communication

with the Guikwar Sircar, determine, shall meet with full approbation and acquiescence.

#### ARTICLE 11.

Whereas there are certain unfinished transactions between His Highness the Peishwa and Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, and there exist certain papers of accounts which are unadjusted, Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor doth hereby agree that the Honourable Company's government shall examine into and finally adjust the said transactions, papers, and accounts, and the demands resulting therefrom ; and Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor binds himself, his heirs and successors, to abide by such adjustment as the British Government shall accordingly determine. Further in respect to these unsettled pecuniary affairs existing with the governments of His Highness the Peishwa and the Guikwar, it behoves the latter to repose a similar faith in the British Government as the Peishwa, who has agreed to abide by the adjustment of these concerns.

This settlement shall be effected by the Honourable Company after taking into mature consideration the impoverished state of the Guikwar finances ; and the latter government entertain a full conviction that no oppressive demand will be enforced under the Company's mediation.

#### ARTICLE 12.

If notwithstanding the defensive nature of the agreement between the contracting parties, and their desire to cultivate and improve the relations of peace with all the powers of India, war should unfortunately break out, it is agreed that with the reserve of a battalion of native infantry to remain near the person of the Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, of such proportion as may appear necessary for the security of Guzerat, the residue of the subsidiary force, with their

ordnance and public store and ammunition, shall be immediately put in motion for the purpose of opposing the enemy.

The troops of the Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor shall accompany the British troops to the boundaries of Guzerat in order to terminate the war. Should, however, any great exigency arise, the circumstances shall be mutually considered, and the best means in the power of the contracting parties pursued to terminate the same

#### ARTICLE 13.

As the enemies of both States are the same, those who are in opposition to the Guikwar Government, or in rebellion to it, can never, while acting in this manner, be admitted to the friendship of the Honourable Company; but should Canojee Guikwar, who comes under this description, repent and submit himself, it will be advisable to allow him a suitable pension, on which he may subsist and reside at Bombay, or at any other place which may be equally safe and convenient

Neither Canojee Guikwar nor Mulhar Rao Guikwar will have any other claim on the Guikwar Government than the pension which has been assigned to the latter, and that which may eventually be assigned to the former.

#### ARTICLE 14.

When the subsidiary troops will take the field, the Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor will supply such quantities of grain and benjarries to attend the army as the resources of his country may afford, the British Government defraying the expense thereof.

#### ARTICLE 15.

If disturbances shall at any time break out in the Honourable Company's territories or districts bordering on those of the Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor, the said Maharajah

Anund Rao Guikwar shall consent to the employment of such a proportion of the subsidiary force as may be requisite to quell the same ; and if at any time disturbances shall break out in any part of the Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor's territories, to which it might be inconvenient to detach a proportion of the subsidiary force, the British Government will, in like manner at the requisition of the said Maharajah Anund Rao Guikwar Sena Kheyl Shumsher Bahadoor detach such a proportion of the troops of the Company as may be most conveniently situated to assist in quelling the said disturbances in the Maharajah Anund Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor's territories.

#### ARTICLE 16.

In future the subjects of each State, who may take refuge with either shall be delivered up, if the State from which such parties shall have fled appear to have any demand of debt or any just claim against him or them ; but as a free intercourse between the countries under the two governments is also intended, frivolous claims against parties resorting from their own to the other's jurisdiction are not to be preferred, and in all serious cases cordiality will be shown.

#### ARTICLE 17.

The contracting parties hereby bind themselves to take into consideration hereafter the commercial relations between their respective territories, and to settle them in due time by a commercial treaty.

*Done at Baroda, the 21st April A.D. 1805.*

(Pages 61 to 66 Aitchison's Collection Vol. VIII.).

(3) Proclamation extending British Protection to the Chiefs of Malwa and Sirhind, dated 3rd May, 1809.

“TRANSLATION of an ITTILAH-NAMEH addressed to the CHIEFS of the country of MALWA and



SIRHIND on this side of the River Sutlege (May 1809).

It is clearer than the sun, and better proved than the existence of yesterday, that the detachment of British Troops to this side of the Sutlege was entirely in acquiescence to the application and earnest entreaty of the Chiefs and originated solely through friendly considerations in the British to preserve the Chiefs in their possessions and independence. A Treaty having been concluded on the 25th April 1809, between Mr Metcalfe on the part of the British Government and Maharajah Runjeet Sing agreeably to the orders of the Right Honourable the Governor-General in Council, I have the pleasure of publishing, for the satisfaction of the Chiefs of the Country of Malwa and Sirhind, the pleasure and resolutions of Government contained in the seven following articles:—

#### ARTICLE 1

The country of the Chiefs of Malwa and Sirhind having entered under the protection of the British Government, in future it shall be secured from the authority and control of Maharajah Runjeet Sing, conformably to the terms of the Treaty.

#### ARTICLE 2.

The country of the Chiefs thus taken under protection shall be exempted from all pecuniary tribute to the British Government.

#### ARTICLE 3.

The Chiefs shall remain in the exercise of the same rights and authority within their own possessions, which they enjoyed before they were taken under the British protection.

#### ARTICLE 4

Whenever a British Force, for purposes connected with the general welfare, shall be judged necessary to

march through the country of the said Chiefs, every Chief shall, within his own possession, assist and furnish the British Force, to the full of his power, with supplies of grain and other necessities which may be demanded.

#### ARTICLE 5.

Should an enemy approach from any quarter for the purpose of conquering this country, friendship and mutual interest require that the Chiefs join the British Army with their forces, and, exerting themselves in expelling the enemy, act under discipline and obedience.

#### ARTICLE 6.

Any European articles brought by merchants from the eastern districts, for the use of the army, shall be allowed to pass by the thanadars and sirdars of the several districts belonging to the Chiefs without molestation or the demand of duty.

#### ARTICLE 7.

All horses purchased for the use of the Cavalry Regiments, whether in Sirhind or elsewhere, the bringers of which being furnished with sealed rahdarees from the Resident at Delhi, or Officer Commanding at Sirhind, the several Chiefs shall allow such horses to pass without molestation or the demand of duty."

(Pages 196 and 197 Aitchison's Collection, Vol. VIII).

(d) Treaty of Friendship and Alliance with the Maharana of Udaipur, dated 13th January, 1818.

"TREATY between the HONOURABLE the ENGLISH EAST INDIA COMPANY and MAHARANA BHEEM SING, Rana of Oudeypore, concluded by MR. CHARLES THEOPHILUS METCALFE, on the part of the HONOURABLE COMPANY, in virtue of full powers granted by HIS EXCELLENCY the MOST NOBLE the MARQUIS OF HASTINGS, K.G., GOVERNOR-GENERAL, and by THAKOOR AJEET SING, on the part of the Maharana, in virtue of full powers conferred by the Maharana aforesaid—1818.

## ARTICLE 1.

There shall be perpetual friendship, alliance, and unity of interests between the two States from generation to generation, and the friends and enemies of one shall be the friends and enemies of both

## ARTICLE 2

The British Government engages to protect the principality and territory of Oudeypore

## ARTICLE 3

The Maharana of Oudeypore will always act in subordinate co-operation with the British Government, and acknowledge its supremacy and will not have any connection with other Chiefs or States

## ARTICLE 4

The Maharana of Oudeypore will not enter into any negotiation with any Chief or State without the knowledge and sanction of the British Government; but his usual amicable correspondence with friends and relations shall continue.

## ARTICLE 5

The Maharana of Oudeypore will not commit aggressions upon any one; and if by accident a dispute arise with any one, it shall be submitted to the arbitration and award of the British Government

## ARTICLE 6

One-fourth of the revenues of the actual territory of Oudeypore shall be paid annually to the British Government as tribute for five years; and after that term three-eighths in perpetuity. The Maharana will not have any connection with any other power on account of tribute, and if any one advance claims of that nature, the British Government engages to reply to them.

## ARTICLE 7.

Whereas the Maharana represents that portions of the dominions of Oudeypore have fallen by improper means

into the possession of others, and solicits the restitution of those places ; the British Government, from a want of accurate information, is not able to enter into any positive engagement on this subject, but will always keep in view the renovation of the prosperity of the State of Oudeypore and after ascertaining the nature of each case, will use its best exertions for the accomplishment of that object, on every occasion on which it may be proper to do so. Whatever places may thus be restored to the State of Oudeypore, by the aid of the British Government, three-eighths of their revenues shall be paid in perpetuity to the British Government.

#### ARTICLE 8.

The troops of the State of Oudeypore shall be furnished according to its means, at the requisition of the British Government.

#### ARTICLE 9.

The Maharana of Oudeypore shall always be absolute ruler of his own country, and the British jurisdiction shall not be introduced into that principality.

#### ARTICLE 10.

The present Treaty of ten articles, having been concluded at Delhi, and signed and sealed by Mr. Charles Theophilus Metcalfe and Thakoor Ajeet Singh Bahadoor, the ratifications of the same by His Excellency the Most Noble the Governor-General and Maharana Bheem Sing shall be mutually delivered within a month from this date.

*Done at Delhi, this 13th day of January, A.D. 1818.*

Governor- General's Small Seal.
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(Sd.) C. T. METCALFE

L.S.
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(Sd.) THAKOOR AJEET SING.

(Sd.) HASTINGS.

Ratified by His Excellency the Governor-General, this 22nd day of January 1818, in Camp at Ooher.

(Sd.) J ADAM,

*Secretary to the Governor-General.*

(Pages 30 and 31 Aitchison's Collection, Vol. III.)

(5) Treaty concluded with the Baroda Government for the collection of the Kathiawar and Mahi Kantha tribute, dated 3rd April, 1820

“TRANSLATION of a TREATY between the BRITISH and GUIKWAR GOVERNMENTS, dated the 3rd of April 1820.



Guikwar  
Seal

With the view of promoting the prosperity, peace and safety of the country, and in order that the Guikwar government shall receive without trouble and with facility the amount of tribute due to it from the provinces of Kattywar and Mahee Kanta, it has been arranged with the British Government that His Highness Syajee Rao Guikwar Sena Khas Kheyl Shumsher Bahadoor shall not send his troops into the districts belonging to the zemindars of both the above provinces without the consent of the Company's government, and shall not prefer any claims against the zemindars or others residing in those provinces except through the arbitration of the Company's government; (on the other hand) the Company's government engage that the tribute, including Khurajaat, as fixed by the settlements of Summut 1814, A.D. 1807 and 1808, and of Sumwat 1868, A D 1811 and 1812, shall be paid by the zemindars to the Guikwar Government free of expense. If in consequence of the misconduct of any zemindar or talookdar it becomes necessary to incur any considerable expense, the same without any addition thereto, shall be defrayed by the said zemindar.”

(Pages 80 and 81 Aitchison's Collection, Vol. VIII.)

- (6) FA'EL ZAMIN of the Chief of Gondal (Kathiawar).  
 "FA'EL ZAMIN OF THE CHIEF OF GONDAL.

*Shri (Prosperity)*

### THREE PESHWA 15.

Written by Barot Karar son of Fulji Rupsinghji of Nara to Shrinant Rao Shri Sena Khas Khel Shamsheer Bahadur.

To wit,—That I, of my own free will, have given to the Shrinant Pant Pradhan and to the Government of the Guikwar, on behalf of Jadeja Devaji, and Kunwar Nathuji of the Taluka of Gondal-Dhoraji, constant and efficient security against exciting disturbances (Fa'el Zamin) for the two shares constituting the entire Province as follows :—

#### ARTICLE 1.

That I will not have a feud with any other (Talukdar) nor will I harbour the outlaw of any other (Talukdar) whether Kathi or Rajput, nor will incite any other person to commit any act of violence, *nor will I encroach upon the boundary of another.* I agree to act as has been the custom hitherto and if any one's Bhayat should come and write over to me their lands or village, I will not purchase such lands or village. I will not revenge myself upon any one for past enmities. I will not harbour thieves in my limits, but if I keep any in my country, it shall be under proper precautions. I will not plunder in the Taluka of any other (Chief) or on the high-road. If any impoverished landholder should be in want, and write over his land or village, I will report the matter to Government, and only purchase them after obtaining permission. And if I should ever wish to write over (my lands) to any one, I will only write them over after obtaining the Government permission.

## ARTICLE 2

I will not associate with any delinquent or criminal of Government whether one of the Shrimant Shri's (Guikwar's) Government, or of the Company Bahadur's

## ARTICLE 3

On both sides of us are situated the Mahals of the Shrimant Pant Pradhan and the Gaekwar Government, and also those of the Honourable Company. In these mahals I will not commit any robberies or make any plundering incursions, nor will I, in any way, molest any merchant or traveller, but will supply them with labourers and guards and thus escort them beyond my frontier. *The owner of the village, within the limits of which, a merchant or a traveller may suffer loss, shall be responsible for the same, and if the loss be sustained at the village of a Talukdar, the Talukdar shall be responsible, and (the village owner or the Talukdar) shall produce the real thief.*

## ARTICLE 4

If I have encroached on the frontier of any other (Zemindar) by force or purchased the land of any one knowing him to be impoverished, then I agree to resign such land on fair terms and afterwards to make no claim to it.

## ARTICLE 5.

According to the above conditions I execute this deed, and make Jam Shri Jasaji of the Navanagar Taluka the counter-security for it; and agree to fulfil the (terms of the) same as above. Should the Sarkar's Mohsal come on account of any failure to observe this Agreement, then I consent to give such satisfaction of the case in point, as the Sarkar and their officials may demand, together with the daily expenses and fine imposed by the Mohsal. Kartak Shud 2nd Samvat 1864.

Signature (of the security) (Mark).

Signature of the counter-security

Signature of Jam Shri Jasaji in the handwriting of Rudarji Rugnathji.

(True translation).

(Signed) JOHN W. WATSON,  
*President, Rajasthanik Court."*

(Pages 114 to 115, Aitchison's Collection, Vol. VI).

(7) Treaty with the Maharaja of Kashmir, dated 6th March, 1846.

"TREATY between the BRITISH GOVERNMENT on the one part and MAHARAJAH GOLAB SING of JUMMOO on the other, concluded on the part of the BRITISH GOVERNMENT by FREDERICK CURRIE, ESQUIRE, and BREVET MAJOR HENRY MONTGOMERY LAWRENCE, acting under the orders of the RIGHT HONOURABLE SIR HENRY HARDINGE, G.C.B., one of HER BRITANNIC MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, GOVERNOR-GENERAL, appointed by the HONOURABLE COMPANY to direct and control all their affairs in the EAST INDIES, and by MAHARAJA GOLAB SING in person,—1846.

#### ARTICLE 1.

The British Government transfers and makes over for ever, in independent possession, to Maharajah Golab Sing and the heirs male of his body, all the hilly or mountainous country, with its dependencies, situated to the eastward of the river Indus and westward of the river Ravee, including Chumba, and excluding Lahul, being part of the territories ceded to the British Government by the Lahore State, according to the provisions of Article IV, of the Treaty of Lahore, dated 9th March 1846.

#### ARTICLE 2.

The eastern boundary of the tract transferred by the foregoing Article to Maharajah Golab Sing shall be laid



down by Commissioners appointed by the British Government and Maharajah Golab Sing respectively for that purpose, and shall be defined in a separate Engagement after survey.

### ARTICLE 3.

In consideration of the transfer made to him and his heirs by the provisions of the foregoing Articles, Maharajah Golab Sing will pay to the British Government the sum of seventy-five lakhs of Rupees (Nanukshahee), fifty lakhs to be paid on ratification of this Treaty, and twenty-five lakhs on or before the first October of the current year, A.D. 1846

### ARTICLE 4

The limits of the territories of Maharajah Golab Sing shall not be at any time changed without the concurrence of the British Government.

### ARTICLE 5

Maharajah Golab Sing will refer to the arbitration of the British Government any disputes of questions that may arise between himself and the Government of Lahore or any other neighbouring State, and will abide by the decision of the British Government

### ARTICLE 6.

Maharajah Golab Sing engages for himself and heirs to join, with the whole of his Military Force, the British troops, when employed within the hills, or in the territories adjoining his possessions

### ARTICLE 7.

Maharajah Golab Sing engages never to take or retain in his service, any British subject, nor the subject of any European or American State, without the consent of the British Government.

### ARTICLE 8

Maharajah Golab Sing engages to respect, in regard to the territory transferred to him, the provisions of

Articles V, VI, and VII of the separate Engagement between the British Government and the Lahore Durbar, dated March 11th, 1846.

#### ARTICLE 9.

The British Government will give its aid to Maharajah Golab Sing in protecting his territories from external enemies.

#### ARTICLE 10.

Maharajah Golab Sing acknowledges the supremacy of the British Government, and will in token of such supremacy present annually to the British Government one horse, twelve perfect shawl goats of approved breed (six male and six female), and three pairs of Cashmere shawls.

This Treaty, consisting of ten articles, has been this day settled by Frederick Currie, Esquire, and Brevet-Major Henry Montgomery Lawrence, acting under the directions of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General on the part of the British Government, and by Maharajah Golab Sing in person; and the said Treaty has been this day ratified by the seal of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General.

*Done at Umritsur, the sixteenth day of March, in the year of our Lord one thousand eight hundred and forty-six, corresponding with the seventeenth day of Rubec-ool-awul 1262 Hijree.*

(Sd.) H. HARDINGE.

Seal.
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(Sd.) F. CURRIE.

„ H. M. LAWRENCE.

By order of the Right Honourable the Governor-General of India.

(Sd.) F. CURRIE,

*Secretary to the Government of India,  
with the Governor-General."*

(Pages 264 to 266, Aitchison's Collection, Vol XI)

8 Sanad to the Maharaja of Patiala, dated 22nd September, 1847.

"SUNNUD to the MAHARAJAH of PUTTEALA, dated 22nd September 1847.

The Right Honourable the Governor-General having resolved to bestow certain lands on the Rajah of Putteala as a mark of consideration for his attachment and services to the British during the late war with the Lahore State, and the Rajah of Putteala having requested that he may at the same time receive a renewed assurance of protection and guarantee of his rights in his former possessions, the Governor-General is pleased to confer this assurance in the form of a Sunnud or Grant as follows, in order that the Maharajah and his successors after him may, with perfect confidence, continue to exercise the same rights and authority in his possessions as heretofore

The Maharajah's ancient hereditary estates, according to annexed schedule shall continue for ever in the possession of himself and his successors, with all Government rights thereto belonging of Police jurisdiction and collection of revenue as heretofore The Maharajah's *chaharumains* feudatories, adherents and dependants will continue bound in their adherence and obligations to the Rajah as heretofore. His Highness will exert himself to do justice and to promote the welfare and happiness of his subjects while they on their part, considering the Rajah as their true and rightful lord, must obey him and his successors accordingly, and pay the revenue punctually, and he always zealous to promote the cultivation of their lands, and to testify their loyalty and obedience The Maharajah has relinquished for himself and his successors for ever all right to levy excise and transit duties which have been abolished throughout the Putteala territory. His Highness also binds himself and his successors to the suppression of *sutee*, infanticide, and slave-dealing within his territories If, unknown to the Maharajah's

authorities, any persons should be guilty of these acts, the Maharajah's authorities will on conviction punish them with such severity as to deter others. The British Government will never demand from the Maharajah and his successors and their dependants above named anything in the way of tribute or revenue or commutation in lieu of troops, or otherwise, for the reason that His Highness will ever continue as heretofore sincerely devoted to the service and interests of the British. The British authorities will not entertain complaints of the Maharajah's subjects or dependants, or interfere with the Maharajah's authority. Should an enemy approach from any quarter to this side of the Beas or Sutlej for the purpose of conquering this country, the Rajah will join the British Army with his forces and exert himself in expelling the enemy and act under discipline and obedience, and in time of war place the resources of his country at the disposal of the British Government. His Highness engages to have made and to keep in repairs, through his own officers, the military roads through his territory, for the passage of British troops from Umballa and other stations to Ferozepore, of a width and elevation to be determined on by the Engineer Officer charged with the duty of laying down the roads. His Highness will also appoint encamping grounds for British troops at the different stages which shall be marked off, so that there be no claims made hereafter on account of damaged crops."

(Pages 201 and 202, Aitchison's Collection, Vol. VIII.)

9. Sanads of Adoption of 1862 :—

(1) Adoption sanad granted to the Nizam, dated 11th March, 1862 :—

"ADOPTION SUNNUD granted to HIS HIGHNESS THE NIZAM OF HYDERABAD—1862.

Her Majesty being desirous that the Governments of the several Princes and Chiefs of India who now govern their own territories should be perpetuated, and that the

representation and dignity of their Houses should be continued ; I hereby, in fulfilment of this desire, convey to you the assurance that on failure of natural heirs any succession to the Government of your State, which may be legitimate according to Mahomedan law, will be upheld

Be assured that nothing shall disturb the engagement thus made to you so long as your House is loyal to the Crown and faithful to the conditions of the Treaties, grants or engagements which record its obligations to the British Government.

(Sd) CANNING "

*Dated 11th March 1862*

(Pages 107 and 108, Aitchison's Collection, Vol IX )

(2) Adoption sanad granted to the Maharana of Udaipur, dated 11th March, 1862

"ADOPTION SUNNUD Granted to RANA SUMBHOO SINGH of MEYWAR (Oudeypore)—1862.

Her Majesty being desirous that the Governments of the several Princes and Chiefs of India who now govern their own territories should be perpetuated, and that the representation and dignity of their Houses should be continued, I hereby, in fulfilment of this desire, convey to you the assurance that on failure of natural heirs, the adoption by yourself and future Rulers of your State of a successor according to Hindoo law and to the customs of your race will be recognised and confirmed

Be assured that nothing shall disturb the engagement thus made to you, so long as your House is loyal to the Crown and faithful to the conditions of the Treaties, grants or engagements which record its obligations to the British Government.

*Dated 11th March 1862.*

(Sd) CANNING."

(Page 35, Aitchison's Collection. Vol. III.)

10. Proclamations of 1875 to Baroda subjects:—

(1) Proclamation of 13th January, 1875.

“PROCLAMATION,—1875.

To all whom it may concern.

Be it known that *Whereas* an attempt has been made at Baroda to poison Colonel R. Phayre, C.B., the late British Resident at the court of His Highness the Gaekwar, and evidence has been adduced to the effect that His Highness Mulhar Rao Gaekwar instigated the said attempt to administer poison to Colonel Phayre ;

*And Whereas* to instigate such attempt would be a high crime against Her Majesty the Queen and a breach of the condition of loyalty to the Crown under which Mulhar Rao Gaekwar is recognised as ruler of the Baroda State, and moreover such an attempt would be an act of hostility against the British Government, and it is necessary fully and publicly to enquire into the truth of the charge and to afford His Highness Mulhar Rao Gaekwar every opportunity of freeing himself from the grave suspicion which attaches to him ;

*And Whereas* in consequence thereof it is necessary to suspend Mulhar Rao Gaekwar from the exercise of power and to make other arrangements for the administration of the Baroda State :

*It is hereby notified* that from this date the Viceroy and Governor-General of India in Council temporarily assumes the administration of the Baroda State, and delegates all the powers necessary for the conduct of the administration to the Agent to the Governor-General and Special Commissioner at Baroda. The administration will be conducted, as far as possible, in accordance with the usages, customs, and laws of the country.

All Sirdars, Inamdars, Zemindars, and inhabitants of the Baroda territories, and all officers and persons whatsoever in the civil and military service of the Baroda

State, or liable to be called upon for such service, are hereby required to submit to the authority of and render obedience to the said Agent to the Governor-General and Special Commissioner during such time as the State may be under the administration of the British Government

In accordance with the gracious intimation made to the Princes and Chiefs of India that it is the desire of Her Majesty the Queen that their Governments should be perpetuated, and the Representation and Dignity of their Houses should be continued, a Native Administration will be re-established in such manner as may be determined upon after the conclusion of the enquiry and after consideration of the results which such enquiry may elicit.

By order of the Viceroy and Governor-General of India in Council

FORT WILLIAM, (Sd.) C. U. ARCHISON,  
The 13th January 1875. Secy. to the Govt. of India."

(Pages 96 and 97, Aitchison's Collection, Vol VIII.)

(2) Proclamation of 19th April, 1875

"PROCLAMATION,—1875

To all whom it may concern

His Highness Mulhar Rao, Gaekwar, was suspended from the exercise of power, and the administration of the Baroda State was temporarily assumed by the British Government in order that a public enquiry might be made into the truth of the imputation that His Highness had instigated an attempt to poison Colonel R. Phayre, C B., the late Representative of the British Government at the Court of Baroda, and that every opportunity should be given to His Highness of freeing himself from the said imputation.

The proceedings of the Commission having been brought to a close, Her Majesty's Government have taken

into consideration the question whether His Highness Mulhar Rao, Gaekwar, shall be restored to the exercise of sovereign power in the State of Baroda.

The Commissioners being divided in opinion, Her Majesty's Government have not based their decision on the enquiry or report of the Commission, nor have they assumed that the result of the enquiry has been to prove the truth of the imputations against His Highness.

Having regard, however, to all the circumstances relating to the affairs of Baroda from the accession of His Highness Malhar Rao, Gaekwar, to the present time, his notorious misconduct, his gross misgovernment of the State, and his evident incapacity to carry into effect the necessary reforms ; having also considered the opinion of the Government of India that it would be detrimental to the interests of the people of Baroda and inconsistent with the maintenance of the relations which ought to subsist between the British Government and the Baroda State, that His Highness should be restored to power, Her Majesty's Government have decided that His Highness Mulhar Rao, Gaekwar, shall be deposed from the sovereignty of Baroda, and that he and his issue shall be hereafter precluded from all rights, honours, and privileges thereto appertaining.

Accordingly His Excellency the Viceroy and Governor-General in Council hereby declares that His Highness Mulhar Rao, Gaekwar, is deposed from the sovereignty of the Baroda State, and that he and his issue are precluded from all rights, honours, and privileges thereto appertaining.

Mulhar Rao will be permitted to select some place in British India, which may be approved by the Government of India, where he and his family shall reside with a suitable establishment and allowance to be provided from the revenues of the Baroda State.

*Her Most Gracious Majesty the Queen*, in re-establishing a Native Administration in the Baroda State, being



desirous to mark her sense of the loyal services of His Highness Khundee Rao, Gaekwar, in 1857, has been pleased to accede to the request of his widow, Her Highness Jumnabae, that she may be allowed to adopt some member of the Gaekwar house, whom the Government of India may select as the most suitable person upon whom to confer the sovereignty of the Baroda State

The necessary steps will accordingly be immediately taken to carry into effect *Her Majesty's* commands. In the meantime, with the consent of His Highness the Maharaja of Indore, Sir Madhava Rao, K.C.S.I., will at once proceed to Baroda, and conduct the administration of the State as Prime Minister, under instructions which he will receive from the Governor-General's Agent and Special Commissioner at Baroda.

In conferring the sovereignty of the Baroda State, no alteration will be made in the Treaty engagements which exist between the British Government and the Gaekwars of Baroda, and the new Gaekwar will enjoy all the privileges and advantages which were conveyed to the Gaekwar of Baroda in the Sunnud of Earl Canning dated the 11th of March, 1862.

By order of His Excellency the Viceroy and Governor General of India in Council

(Sd.) C U AITCHISON,

*Secretary to the Government of India."*

*The 19th April 1875*

(Pages 97 and 98, Aitchison's Collection, Vol. VIII.)

11. Instrument of Transfer, Mysore, dated 1st March, 1881.

"INSTRUMENT OF TRANSFER—1881.

Whereas the British Government has now been for a long period in possession of the territories of Mysore and has introduced into the said territories an improved system

of administration : and whereas, on the death of the late Maharaja the said Government, being desirous that the said territories should be administered by an Indian dynasty under such restrictions and conditions as might be necessary for ensuring the maintenance of the system of administration so introduced, declared that if Maharaja Chamrajendra Wadiar Bahadur, the adopted son of the late Maharaja, should, on attaining the age of eighteen years, be found qualified for the position of ruler of the said territories, the Government thereof should be intrusted to him, subject to such conditions and restrictions as might be thereafter determined : And whereas the said Maharaja Chamarajendra Wadiar Bahadur has now attained the said age of eighteen years and appears to the British Government qualified for the position aforesaid, and is about to be intrusted with the Government of the said territories : And whereas it is expedient to grant to the said Maharaja Chamarajendra Wadiar Bahadur a written Instrument defining the conditions subject to which he will be so intrusted : It is hereby declared as follows :—

1. The Maharaja Chamrajendra Wadiar Bahadur shall, on the twenty-fifth day of March 1881, be placed in possession of the territories of Mysore, and installed in the administration thereof.

2. The said Maharaja Chamarajendra Wadiar Bahadur and those who succeed him in manner hereinafter provided shall be entitled to hold possession of, and administer, the said territories as long as he and they fulfil the conditions hereinafter prescribed.

3. The succession to the administration of the said territories shall devolve upon the lineal descendants of the said Maharaja Chamrajendra Wadiar Bahadur, whether by blood or adoption, according to the rules and usages of his family, except in case of disqualification through manifest unfitness to rule :

Provided that no succession shall be valid until it has been recognised by the Governor-General in Council.

In the event of a failure of lineal descendants, by blood and adoption, of the said Maharaja Chamrajendra Wadiar Bahadur, it shall be within the discretion of the Governor-General in Council to select as a successor any member of any collateral branch of the family whom he thinks fit.

4. The Maharaja Chamarajendra Wadiar Bahadur and his successors (hereafter called the Maharaja of Mysore) shall at all times remain faithful in allegiance and subordination to Her Majesty the Queen of Great Britain and Ireland and Empress of India, Her Heirs, and Successors, and perform all the duties which in virtue of such allegiance and subordination may be demanded of them

5 The British Government having undertaken to defend and protect the said territories against all external enemies, and to relieve the Maharaja of Mysore of the obligation to keep troops ready to serve with the British army when required, there shall in consideration of such undertaking, be paid from the revenues of the said territories to the British Government an annual sum of Government Rupees thirty-five lakhs in two half-yearly instalments, commencing from the said twenty-fifth day of March 1881.

6 From the date of the Maharaja's taking possession of the territories of Mysore, the British sovereignty in the island of Srirangapatam shall cease and determine, and the said island shall become part of the said territories, and be held by the Maharaja upon the same conditions as those subject to which he holds the rest of the said territories.

7. The Maharaja of Mysore shall not, without the previous sanction of the Governor-General in Council build any new fortresses or strongholds, or repair the defences of any existing fortresses or strongholds in the said territories

8. The Maharaja of Mysore shall not, without the permission of the Governor-General in Council, import or

permit to be imported, into the said territories, arms ammunition or military stores, and shall prohibit the manufacture of arms, ammunition and military stores throughout the said territories, or at any specified place therein, whenever required by the Governor-General in Council to do so.

9. The Maharaja of Mysore shall not object to the maintenance or establishment of British cantonments in the said territories whenever and wherever the Governor-General in Council may consider such cantonments necessary. He shall grant free of all charges such land as may be required for such cantonments, and shall renounce all jurisdiction within the lands so granted. He shall carry out in the lands adjoining British cantonments in the said territories such sanitary measures as the Governor-General in Council may declare to be necessary. He shall give every facility for the provision of supplies and articles required for the troops in such cantonments, and on goods imported or purchased for that purpose no duties or taxes of any kind shall be levied without the assent of the British Government.

10. The military force employed in the Mysore State for the maintenance of internal order and the Maharaja's personal dignity, and for any other purposes approved by the Governor-General in Council, shall not exceed the strength which the Governor-General in Council may, from time to time, fix. The directions of the Governor-General in Council in respect to the enlistment, organisation, equipment and drill of troops shall at all times be complied with.

11. The Maharaja of Mysore shall abstain from interference in the affairs of any other State or Power, and shall have no communication or correspondence with any other State or Power, or the Agents or Officers of any other State or Power, except with the previous sanction and through the medium of the Governor-General in Council.

12. The Maharaja of Mysore shall not employ in his service any person not a native of India without the previous sanction of the Governor-General in Council, and shall, on being so required by the Governor-General in Council, dismiss from his service any person so employed

13. The coins of the Government of India shall be a legal tender in the said territories in the cases in which payment made in such coins would, under the law for the time being in force, be a legal tender in British India, and all laws and rules for the time being applicable to coins current in British India shall apply to coins current in the said territories. The separate coinage of the Mysore State, which has long been discontinued, shall not be revived.

14. The Maharaja of Mysore shall grant free of all charge such land as may be required for the construction and working of lines of telegraphy in the said territories wherever the Governor-General in Council may require such land, and shall do his utmost to facilitate the construction and working of such lines. All lines of telegraph in the said territories, whether constructed and maintained at the expense of the British Government, or out of the revenues of the said territories, shall form part of the British telegraph system and shall, save in cases to be specially excepted, by agreement between the British Government and the Maharaja of Mysore, be worked by the British Telegraph Department, and all laws and rules for the time being in force in British India in respect to telegraphs shall apply to such lines of telegraph when so worked

15. If the British Government at any time desires to construct or work, by itself or otherwise, a railway in the said territories, the Maharaja of Mysore shall grant free of all charge such lands as may be required for that purpose, and shall transfer to the Governor-General in Council plenary jurisdiction within such land, and no duty or tax whatever shall be levied on through traffic

carried by such railway which may not break bulk in the said territories.

16. The Maharaja of Mysore shall cause to be arrested and surrendered to the proper officers of the British Government any person within the said territories accused of having committed an offence in British India, for whose arrest and surrender a demand may be made by the British Resident in Mysore, or some other officer authorised by him in this behalf ; and he shall afford every assistance for the trial of such persons by causing the attendance of witnesses required, and by such other means as may be necessary.

17. Plenary criminal jurisdiction over European British subjects in the said territories shall continue to be vested in the Governor-General in Council and the Maharaja of Mysore shall exercise only such jurisdiction in respect of European British subjects as may from time to time be delegated to him by the Governor-General in Council.

18. The Maharaja of Mysore shall comply with the wishes of the Governor-General in Council in the matter of prohibiting or limiting the manufacture of salt and opium, and the cultivation of poppy, in Mysore ; also in the matter of giving effect to all such regulations as may be considered proper in respect to the export and import of salt, opium and poppy-heads.

19. All laws in force and rules having the force of law in the said territories when the Maharaja Chamarajendra Wadiar Bahadur is placed in possession thereof, as shown in the Schedule hereto annexed, shall be maintained and efficiently administered, and, except with the previous consent of the Governor-General in Council, the Maharaja of Mysore shall not repeal or modify such laws, or pass any laws or rules inconsistent therewith.

20. No material change in the system of administration, as established when the Maharaja Chamarajendra, Wadiar Bahadur is placed in possession of the territories,

shall be made without the consent of the Governor-General in Council.

21. All title-deeds granted and all settlements of land-revenue made during the administration of the said territories by the British Government, and in force on the said twenty-fifth day of March 1881, shall be maintained in accordance with the respective terms thereof, except in so far as they may be rescinded or modified either by a competent Court of law, or with the consent of the Governor-General in Council.

22. The Maharaja of Mysore shall at all times conform to such advice as the Governor-General in Council may offer him with a view to the management of his finances, the settlement and collection of his revenues, in imposition of taxes, the administration of justice, the extension of commerce, the encouragement of trade, agriculture and industry, and any other objects connected with the advancement of His Highness's interests, the happiness of his subjects, and his relations to the British Government.

23. In the event of the breach or non-observance by the Maharaja of Mysore of any of the foregoing conditions, the Governor-General in Council may resume possession of the said territories and assume the direct administration thereof, or make such other arrangements as he may think necessary to provide adequately for the good government of the people of Mysore, or for the security of British rights and interests within the province.

24. This document shall supersede all other documents by which the position of the British Government with reference to the said territories has been formally recorded. And if any question arise as to whether any of the above conditions has been faithfully performed, or as to whether any person is entitled to succeed, or is fit to succeed, to the administration of the said territories, the decision thereon of the Governor-General in Council shall be final.

FORT WILLIAM ;  
The 1st March, 1881. }

(Signed) RIPON "

(Pages 231 to 235, Aitchison's Collection, Vol. IX.)

12. Salt Agreements with Rajputana States:—

(1) Treaty with the Maharaja of Jaipur, dated 7th August, 1869.

“TREATY between the BRITISH GOVERNMENT and HIS HIGHNESS S. RAM SING, MAHARAJAH OF JEYPORE, G.C.S.I., his heirs and successors, executed on the one part by MAJOR WILLIAM H. BEYNON, POLITICAL AGENT at the COURT of JEYPORE, under authority from LIEUTENANT-COLONEL RICHARD HARTE KEATINGE, C.S.I., and V.C., AGENT to the GOVERNOR-GENERAL for the STATES of RAJPOOTANA in virtue of the full powers vested in him by HIS EXCELLENCY THE RIGHT HON'BLE RICHARD SOUTHWELL BOURKE, EARL OF MAYO, VISCOUNT MAYO of MONYCROWER, BARON NAAS of NAAS, K.P., G.M.S.I., P.C., &c., &c., &c., VICEROY and GOVERNOR-GENERAL of INDIA, and on the other part by NAWAB MAHOMED FAIZ ALI KHAN, BAHADUR, in virtue of the full powers conferred on him by MAHARAJAH RAM SING, aforesaid—1869.

ARTICLE 1.

Subject to the conditions contained in the following Agreement the Government of Jeypore will leave to the British Government its right of manufacturing and of selling salt within the limits of the territory bordering on the Sambhur Lake, as hereinafter defined in Article 4, and of levying duties on salt produced within such limits.

ARTICLE 2.

This lease shall continue in force until such time as the British Government desires to relinquish it, provided that the British Government shall give notice to the Government of Jeypore of its intention to terminate the



arrangement two full years previous to the date on which it desires the lease to cease

### ARTICLE 3

To enable the British Government to carry on the manufacture and sale of salt at the Sambhur Lake, the Jeypore Government shall empower the British Government and all officers appointed by the British Government for such purposes to enter and search in case of suspicion, houses and all other places enclosed or otherwise, within the limits hereinafter defined, and to arrest and punish with fine, imprisonment, confiscation of goods, or otherwise, any and all persons detected within such limits in the violation of any of the rules or regulations which may be laid down by the British Government in regard to the manufacture, sale, or removal of salt, or the prevention of unlicensed manufacture or smuggling

### ARTICLE 4

The strip of territory bordering on the shores of the lake, including the town of Sambhur and twelve other hamlets, and comprehending the whole of the territory now subject to the joint jurisdiction of the States of Jeypore and Jodhpure, shall be demarcated, and the whole space enclosed by such line of demarcation as well as such portions of the lake itself or of its dry bed as are now under the said joint jurisdiction shall be held to constitute the limits within which the British Government and its officers are authorised to exercise the jurisdiction referred to in Article 3.

### ARTICLE 5

Within the said limits, and so far as such measures may be necessary for the protection or furtherance of the manufacture, sale, or removal of salt, the prevention of smuggling and the enforcement of the rules laid down in accordance with Article 3 of this Agreement the British Government, or the officers by it empowered, shall be authorised to occupy land for building or other purposes, to

construct roads, erect barriers, hedges, or buildings, and to remove buildings or other property. If any land paying land revenue to the Government of Jeypore be occupied under the authority of the British Government for any of the purposes aforesaid, the British Government shall pay to the Government of Jeypore an annual rent equal to the amount of such revenue. In every case in which anything involving injury to private property shall be done by the British Government or its officers under this Article one month's previous notice shall be given to the Government of Jeypore and in all such cases proper compensation shall be paid by the British Government on account of such injury. In case of difference between the British Government or its officers and the owner of such property as to the amount of the compensation such amount shall be determined by arbitration. The erection of any buildings within the said limits shall not confer on the British Government any proprietary right in the land, which on the termination of the lease, shall revert to the Government of Jeypore, with all buildings or materials left thereon by the British Government. No temples or places of religious worship shall be interfered with.

#### ARTICLE 6.

Under the authority of the Jeypore Government the British Government shall constitute a Court, presided over by a competent officer, who shall usually hold his sittings within the abovementioned limits for the trial and punishment on conviction, of all persons charged with violations of the rules and regulations referred to in Article 3, or offences connected therewith ; and the British Government is authorized to cause the confinement of any such offenders sentenced to imprisonment either within the aforesaid limits or within its own territories as may seem to it most fitting.

#### ARTICLE 7.

From and after the date of the commencement of the lease the British Government will from time to time fix

the price at which salt manufactured within the said limits, other than the salt to be delivered under the second clause of this Article, shall be offered for sale. The Jeypore Government shall be entitled to receive annually at the place of manufacture from the British Government, for the consumption of the Jeypore State, any quantity of salt which the Jeypore Government may demand, not exceeding one hundred and seventy-two thousand (172,000) British Indian maunds, paying for the same at the rate of nine (9) annas (British Currency) per maund. The Jeypore Government will be at liberty to sell such salt at any price that it may fix.

#### ARTICLE 8.

Of the stocks of salt owned jointly by the Governments of Jeypore and Jodhpore, and existing within the said limits at the commencement of the lease, the share belonging to the Jeypore Government being the half of the stocks abovementioned shall be transferred by the said Government to the British Government on the following terms:—In accordance with custom the Government of Jeypore will transfer its share in five hundred and ten thousand (510,000) British Indian maunds of salt to the British Government free of cost. The price to be paid for the share of the Jeypore Government in the remainder of the said stocks shall be reckoned at six and a half annas ( $6\frac{1}{2}$ ) per British Indian maund, and payment shall be made at this rate by the British Government to the Government of Jeypore, provided that the said payment of six and a half annas per maund to the Government of Jeypore shall only commence when salt in excess of eight hundred and twenty five thousand (825,000) British Indian maunds is sold or exported by the British Government in any year, and then only on the share of such excess which belongs to the Government of Jeypore; and until the aggregate of such yearly excesses amounts to the full quantity of the stocks of salt transferred over and above the said five hundred and ten thousand British Indian

maunds, the British Government shall not pay the royalty of 20 per cent. on the sale price of such excess, as provided in Article 12. In reckoning the said eight hundred and twenty five thousand maunds the amount of salt reserved for the consumption of the Jeypore State under clause 2 of Article 7 shall be included.

#### ARTICLE 9.

No tax, toll, transit duty, or due of any kind whatsoever, shall be levied by the Jeypore Government or shall by it be permitted to be levied by any other person, on any salt manufactured or sold by the British Government within the said limits, or while in transit through the Jeypore territory and covered by a British pass, *en route* to any place outside the Jeypore territory, provided that on all salt delivered under Article 7, or sold for consumption within the territory of Jeypore, the Government of that State will be at liberty to levy whatever tax it may please.

#### ARTICLE 10.

Nothing in this Agreement shall be held to bar the sovereign jurisdiction of the Jeypore Government, within the aforesaid limits in all matters, civil and criminal, not connected with the manufacture, sale or removal of salt, or the prevention of unlicensed manufacture or smuggling.

#### ARTICLE 11.

The Government of Jeypore shall be relieved of all expenses whatsoever connected with the manufacture, sale, and removal of salt, and the prevention of unlicensed manufacture, or smuggling within the limits aforesaid; and in consideration of the lease granted to it, the British Government agrees to pay to the Jeypore Government in two half-yearly instalments, an annual rent of one hundred and twenty-five thousand (1,25,000) Rupees, British Currency, on account of the share of the Jeypore Government in the salt sold within the said limits, and one hundred and fifty thousand (1,50,000) Rupees, British

Currency, in compensation for duties on salt now levied by the Jeypore Government and surrendered under the present Agreement; and the total sum of such annual rent, amounting to two hundred and seventy-five thousand (2,75,000) Rupees, British Currency, shall be paid without reference to the quantity of salt actually sold in, or exported from, the said limits

#### ARTICLE 12

If the amount of salt sold in, or exported from, the said limits by the British Government in any year shall exceed eight hundred and twenty five thousand (825,000) British Indian maunds, the British Government shall pay to the Government of Jeypore on all such excess (subsequent to the exhaustion of the stocks referred to in Article 8) a royalty at the rate of 20 per cent on the price per maund, which shall have been fixed as the selling price under the first clause of Article 7. In the event of any doubts arising as to the amount of salt on which royalty is claimable in any year the accounts rendered by the principal British officer in charge at Sambhur shall be deemed conclusive evidence of the amounts actually sold or exported by the British Government within the periods to which they refer, provided that the Jeypore Government shall not be debarred from deputing one of its own officers to keep a record of sale for its own satisfaction.

#### ARTICLE 13.

The British Government agrees to deliver annually (7,000) seven thousand British Indian maunds of good salt, free of all charges, for the use of the Jeypore Durbar, such salt to be delivered at the place of manufacture to any officer empowered by the Jeypore Government to receive it.

#### ARTICLE 14.

The British Government shall have no claim on the land or other revenue, unconnected with salt, payable from

the town of Sambhur, or other villages or lands included within the limits aforesaid.

ARTICLE 15.

The British Government shall not sell any salt outside the limits aforesaid within the Jeypore territory.

ARTICLE 16.

If any person employed by the British Government within the said limits shall have absconded after committing an offence, or if any person shall have absconded after committing a breach of the rules laid down under Article 3, the Jeypore Government shall, on sufficient evidence of his criminality, make every effort to cause his arrest and surrender to the British authorities within the said limits, in case of his passing through, or taking refuge in any part of the Jeypore territories.

ARTICLE 17.

None of the conditions of this Agreement shall have effect until the British Government shall actually assume charge of the manufacture of salt within the said limits. The British Government may determine the date of so assuming charge, provided that such date shall be one of the dates following, *viz.*, the 1st November 1869, the 1st May or the 1st November 1870, or the 1st May 1871. If such charge be not assumed on or before the 1st May 1871, the conditions of this Agreement shall be null and void.

ARTICLE 18.

None of the conditions contained in this Agreement shall be in any way set aside or modified without the previous consent of both Governments ; and should either party fail or neglect to adhere to these conditions the other party shall cease to be bound by this Agreement.

(Sd.) W. H. BEYNON,

*Political Agent.*

(Sd.) NAWAB MAHOMED FAIZ ALI.

KHAN, BAHADOOR.

Signed, sealed and exchanged at Simla on the seventh day of August in the year of Our Lord one thousand eight hundred and sixty-nine.

(Sd.) S. RAM SING.

(Sd) MAYO

This Treaty was ratified by His Excellency the Viceroy and Governor-General of India, at Simla, on the seventh of August 1869.

(Sd.) W. S. SELON-KARR,

*Secy. to Govt. of India, Foreign Dept "*

(Pages 112 to 116, Aitchison's Collection, Vol. III)

(2) Mewar Salt Agreement, dated 12th February, 1879

"MEYWAR SALT AGREEMENT, dated the 12th February 1879. RATIFIED THE 8TH MAY 1879

#### ARTICLE 1.

His Highness the Maharana of Oodeypore agrees to suppress and absolutely prohibit and prevent the manufacture of salt within any part of the Mewar State, from the date on which this Agreement comes into force

Provided that if at any subsequent time His Highness the Maharana desires to reconstruct and reopen works sufficient for the manufacture of a quantity of edible salt not exceeding 15,000 maunds annually, the British Government, on receiving notice not less than twelve months beforehand, will allow certain works selected by officials of the Maharana to be reopened under proper safeguards and conditions Returns of the outturn of such works shall be furnished annually to the British Government

#### ARTICLE 2.

His Highness the Maharana agrees to prevent the import into, and export from, Meywar of any salt whatever other than salt on which duty has been levied by the British Government and the one thousand maunds of salt mentioned in Article 6.

## ARTICLE 3.

No transit duty shall be levied within the Meywar State upon salt upon which duty has been levied by the British Government.

## ARTICLE 4.

In consideration of the faithful and effective observance of the conditions specified in Articles 1 and 2 of this Agreement, the British Government agree to pay yearly to His Highness the Maharana of Oodeypore the following sums in British currency :—

For compensation for loss of revenue to the State, and to landholders caused by the suppression of the salt-works so long as all salt works shall remain closed in Meywar—Rupees two thousand and nine hundred (2,900). And His Highness the Maharana agrees to distribute out of the sum of rupees two thousand and nine hundred afore-said, the sums allotted to the several jagirdars and others entitled to compensation in accordance with Schedule A attached to this agreement.

For the charges which may be incurred by His Highness the Maharana in preventing re-opening of the suppressed works or the extension of any works hereafter opened by permission, and in preventing the illicit export of salt—Rupees ten thousand (10,000).

## ARTICLE 5.

In consideration of the effective observance by His Highness the Maharana of Oodeypore of the conditions specified in Article 3 of this Agreement, and having regard to the probable diminution of the Maharana's present revenue from transit duties upon salt, which is to be anticipated from the levying of the British duty at the salt sources in Marwar, and elsewhere, the British Government agree to pay to His Highness the Maharana annually the sum of Rupees thirty-five thousand (35,000).



## ARTICLE 6.

The British Government agree to permit His Highness the Maharana of Oodeypore to purchase annually from the salt-works at Pachbadra, for the consumption of the people of his State, at a price which shall not exceed a maximum of eight annas per maund, one hundred and twenty-five thousand (1,25,000) British Indian maunds of salt, in equal half yearly instalments. The British duty on the salt thus purchased shall be levied at half the full rate of duty at the time leviable at the works from which the salt is supplied.

Provided that, in the event of any salt-works being re-opened in Meywar, under the 1st Article of this Agreement, the estimated yield of those works may, if the British Government so desire, be deducted from the quantity of salt allotted under this Article

The British Government also undertake to deliver annually at Pachbadra, for the use of His Highness the Maharana, one thousand maunds of salt of good quality, free of all charges whatsoever

The salt mentioned in this article shall be forthwith removed into the Meywar State, and shall not be re-exported therefrom.

## ARTICLE 7.

If any considerable stocks of salt be proved to exist within the Meywar State, when this Agreement comes into force, the Maharana will, if so required by the British Government, take possession of such stocks, and will give the owners thereof the option either of transferring the salt to the British Government at such equitable valuation as His Highness may fix in concurrence with the Political Agent, or of paying the said Agent such duty not exceeding two rupees eight annas per maund on such salt as the Governor-General in Council may fix. In the event of the owners aforesaid accepting the latter alternative, they shall be allowed to retain the salt on which duty so provided may be paid, but not otherwise.

## ARTICLE 8.

In the event of its being proved by experience that the arrangements made in accordance with this Agreement by His Highness the Maharana of Oodeypore for the safety of the British salt revenue are practically insufficient, or in the event of its being proved to the full satisfaction of the British Government, that the quantity of salt provided for the consumption and use of the people of the Meywar State in Article 6 is materially insufficient, this Agreement will be open to revision.

## ARTICLE 9.

This Agreement is to come into force from a date to be fixed hereafter by the British Government."

(Pages 38 to 40, Aitchison's Collection, Vol. III.).

13. Commercial Treaty with the Maharaja of Kashmir, dated 2nd April 1870.

"TREATY between the BRITISH GOVERNMENT and HIS HIGHNESS MAHARAJA RUNBEER SINGH, G.C.S.I., MAHARAJA of JUMMOO and CASHMERE, his heirs and successors, executed on the one part by THOMAS DOUGLAS FORSYTH, C.B., in virtue of the full powers vested in him by HIS EXCELLENCY the RIGHT HON'BLE RICHARD SOUTHWELL BOURKE, EARL of MAYO, VISCOUNT MAYO of MONYCROWER, BARON NAAS of NAAS, K.P., G.M.S.I., P.C., etc., etc., etc., VICE-ROY and GOVERNOR-GENERAL of INDIA, and on the other part by HIS HIGHNESS MAHARAJA RUNBEER SINGH aforesaid, in person,—1870.

Whereas, in the interest of the high contracting parties and their respective subjects it is deemed desirable to afford greater facilities than at present exist for the development and security of trade with Eastern Turkestan, the following Articles have, with this object, been agreed upon :—

## ARTICLE 1.

With the consent of the Maharaja, officers of the British Government will be appointed to survey the trade routes through the Maharaja's territories from the British frontier of Lahoul to the territories of the Ruler of Yarkund, including the route *via* the Chang Chemoo Valley. The Maharaja will depute an officer of his Government to accompany the Surveyors, and will render them all the assistance in his power. A map of the routes surveyed will be made, an attested copy of which will be given to the Maharaja.

## ARTICLE 2

Whichever route towards the Chang Chemoo Valley shall, after examination and survey as above, be declared by the British Government to be the best suited for the development of trade with Eastern Turkestan, shall be declared by the Maharaja to be a free highway in perpetuity and at all times for all travellers and traders.

## ARTICLE 3

For the supervision and maintenance of the road in its entire length through the Maharaja's territories, the regulation of traffic on the free highway described in Article 2, the enforcement of regulations that may be hereafter agreed upon, and the settlement of disputes between carriers, traders, travellers, or others using that road, in which either of the parties or both of them are subjects of the British Government or of any foreign State, two Commissioners shall be annually appointed, one by the British Government, and the other by the Maharaja. In the discharge of their duties and as regards the period of their residence the Commissioners shall be guided by such rules as are now separately framed and may, from time to time, hereafter be laid down by the joint authority of the British Government and the Maharaja.

## ARTICLE 4.

The jurisdiction of the Commissioners shall be defined by a line on each side of the road at a maximum width of two Statute koss, except where it may be deemed by the Commissioners necessary to include a wider extent for grazing grounds. Within this maximum width the Surveyors appointed under Article 1 shall demarcate and map the limits of jurisdiction which may be decided on by the Commissioners as most suitable, including grazing grounds; and the jurisdiction of the Commissioners shall not extend beyond the limits so demarcated. The land included within these limits shall remain the Maharaja's independent possession ; and, subject to the stipulation contained in this Treaty, the Maharaja shall continue to possess the same rights of full sovereignty therein as in any other part of his territories, which rights shall not be interfered with in any way by the Joint Commissioners.

## ARTICLE 5.

The Maharaja agrees to give all possible assistance in enforcing the decisions of the Commissioners and in preventing the breach or evasion of the regulations established under Article 3.

## ARTICLE 6.

The Maharaja agrees that any person, whether a subject of the British Government or of the Maharaja or of the Ruler of Yarkund, or of any foreign State, may settle at any place within the jurisdiction of the two Commissioners, and may provide, keep, maintain, and let for hire at different stages the means of carriage and transport for the purposes of trade.

## ARTICLE 7.

The two Commissioners shall be empowered to establish supply depôts and to authorise other persons to establish supply depôts at such places on the road as may appear to them suitable ; to fix the rates at which provisions shall

be sold to traders, carriers, settlers and others, to fix the rent to be charged for the use of any rest-houses or serais that may be established on the road. The officers of the British Government in Kullu, etc., and the officers of the Maharaja in Ladak, shall be instructed to use their best endeavours to supply provisions on the indent of the Commissioners at market rates.

## ARTICLE 8

The Maharaja agrees to levy no transit duty whatever on the aforesaid free highway, and the Maharaja further agrees to abolish all transit duties levied within his territories on goods transmitted in bond through His Highness' territories from Eastern Turkestan to India, and vice versa, on which hulk may not be broken within the territories of His Highness. On goods imported into, or exported from, His Highness' territory, whether by the aforesaid free highway or any other route, the Maharaja may levy such import or export duties as he may think fit.

## ARTICLE 9

The British Government agree to levy no duty on goods transmitted in bond through British India to Eastern Turkestan, or to the territories of His Highness the Maharaja. The British Government further agree to abolish the export duties now levied on shawls and other textile fabrics manufactured in the territories of the Maharaja, and exported to countries beyond the limits of British India.

## ARTICLE 10

This Treaty, consisting of 10 Articles, has this day been concluded by Thomas Douglas Forsyth, C B, in virtue of the full powers vested in him by His Excellency the Right Hon'ble Richard Southwell Bourke, Earl of Mayo, Viscount Mayo, Monycrower, Baron Naas of Naas, K.P., G.M.S.I. P.C., etc., etc., Viceroy and Governor-General of India on the part of the British Government, and by Maharaja Runbeer Singh aforesaid; and it is

agreed that a copy of this Treaty, duly ratified by His Excellency the Viceroy and Governor-General of India, shall be delivered to the Maharaja on or before the 7th September 1870.

Signed, sealed, and exchanged at Sealkote on the second day of April in the year of our Lord one thousand eight hundred and seventy, corresponding with the 22nd day of Bysack, Sumbut 1927.

Signature of the Maharaja of Cashmere.

(Sd.) T. D. FORSYTH.

„ MAYO.

This Treaty was ratified by His Excellency the Viceroy and Governor-General of India at Sealkote on the 2nd day of May 1870.

(Sd.) C. U. AITCHISON,

*Officiating Secretary to the Government of  
India, Foreign Department."*

(Pages 272 to 274, Aitchison's Collection, Vol. XI.)

14. Agreement under the Native Coinage Act, 1876, with the Bikaner Durbar, dated 16th February, 1893.

"AGREEMENT under the NATIVE COINAGE ACT,  
1876, with the BIKANIR DARBAR.

ARTICLES of AGREEMENT made this sixteenth day of FEBRUARY 1893 between the GOVERNMENT of INDIA on the one part and the BIKANIR DARBAR on the other part :—

Whereas under the Native Coinage Act, IX of 1876, the Governor-General in Council has power from time to time to declare by notification in the *Gazette of India* that a tender of payment of money if made in the coins, or the coins of any specified metal, made under the said Act for any Native State, shall be a legal tender in British India : And Whereas by section 4 of the said Act it is declared

that such power shall be exercisable only under certain conditions, amongst which is the condition that the Native State for which such coins are coined shall enter into agreements corresponding with the first three articles of these presents. And whereas by section 5 of the said Act any such State is authorised to send to any mint in British India metal to be made into coin under the same Act, and (subject as therein mentioned) the Mint Master is required to receive such metal and convert it into coin

And whereas the Bikanir State is a Native State within the meaning of the said Act, and the Bikanir Darbar, pursuant to such authority, has sent or will send to the Mint of Bombay silver to be coined under the said Act into a maximum of Rupees ten lakhs or thereabouts, and has requested the Government of India to exercise the power hereinbefore recited in the case of the said coins, and the Government of India have consented to exercise such power by issuing the requisite notification in the *Gazette of India*, on the execution by the said Bikanir Darbar of this Agreement

Now these presents witness, and it is hereby agreed between the parties hereto as follows (that is to say) —

*Firstly.*—The Bikanir Darbar agrees to abstain during a term of thirty years, from the date of the notification aforesaid, from coining silver and copper in its own mint, and also undertakes that no coins resembling coins for the time being a legal tender in British India, shall, after the expiration of the said term, be struck under its authority, or with its permission at any place within or without its jurisdiction.

*Secondly.*—The Bikanir Darbar also agrees that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for the Bikanir State under this Act, and that it will defray the cost of cutting and breaking them.

*Thirdly.*—The Bikanir Darbar also agrees not to issue the said coins below their nominal value and not to allow any discount or other advantages to any person in order to bring them into circulation.

*Fourthly.*—The Bikanir Darbar agrees that if at any time the Government of India call in its coinage in silver and copper, the Darbar will, if so requested by the Government of India, call in at its own expense all coins made for it under this Agreement.

In witness whereof Rai Bahadur Sodhi Hukum Singh, Thakur Lal Singh, and Mahita Mangal Chand, Members of the Council of Regency, and C. S. Bayley, Indian Civil Service, Political Agent, Bikanir, on behalf of the Government of India, have set their hands and seals the day and year first above written.

(Sd.) SODHI HUKUM SINGH

(Sd.) LANSDOWNE,  
Viceroy and Gover.-  
Genl. of India.

(Sd. in vernacular) LAL SINGH.

„ „ MAHITA MANGAL CHAND.

(Sd.) CHAS. S. BAYLEY,

*Political Agent in Bikaner.*

This agreement was ratified by His Excellency the Viceroy and Governor-General of India at Fort William, on the third day of March 1893.

(Sd.) H. M. DURAND,

*Secretary to the Government of India,  
Foreign Department.*

(Pages 355 to 357, Aitchison's Collection, Vol. III).


15. Cession of Jurisdiction over the Railways by Bikaner State, dated 15th December, 1899.

“AGREEMENT entered into by HIS HIGHNESS the MAHARAJA of BIKANER regarding the CESSION of Jurisdiction on the BIKANER portion of the



# JODHPUR-BIKANER and BIKANER-BHATINDA RAILWAYS.

I, Ganga Singh, Maharaja of Bikaner, hereby cede to the British Government full and exclusive power and jurisdiction of every kind over the lands in the said State which are, or may hereafter be, occupied by the Jodhpur-Bikaner and Bikaner-Bhatinda Railway systems, with all their current and future extensions (including all lands occupied for stations, for out-buildings and for other railway purposes) and over all persons and things whatsoever within the said limits.

Bikaner ;  
The 15th December 1899 }  GANGA SINGH,  
Maharaja of Bikaner

(Pages 354 and 355, Aitchison's Collection, Vol. III).

16. Agreement with the Maharaja of Patiala re the Imperial Service Troops, dated 1st July, 1900

"AGREEMENT ENTERED into between the BRITISH GOVERNMENT and HIS HIGHNESS the MAHARAJA of PATIALA for the INTRODUCTION of definite arrangements for the effective control and discipline of the PATIALA IMPERIAL SERVICE TROOPS when serving beyond the FRONTIER of the PATIALA STATE,—1900

Whereas His Highness Maharaja Sir Rajindar Singh, Bahadur, G.C.S I., Chief of Patiala, maintains a force of Imperial Service Troops for the purpose of co-operating, if need be, in the defence of the British Empire, and

Whereas it is necessary that the Imperial Service Troops of the Patiala State, when associated with troops of the British Army, should be under the orders of the Officer Commanding the combined forces, and subject to the like discipline and control as the officers and soldiers of Her Majesty's Indian Army, and

Whereas it is not the wish or intention of the Government of India that a British officer should be appointed to command any corps of Imperial Service Troops, though British officers are employed in order to instruct and inspect the said troops,

It is hereby agreed between the Governor-General of India of the one part and His Highness the Maharaja of Patiala of the other, as follows, namely—

1. Whenever the said troops or any portion thereof are moved beyond the frontier of the said State, they shall be attached to the command and under the orders of the Officer Commanding the District, Contingent or Force in which they are employed, and such officer shall, by virtue of the agreement, be authorised to administer in respect to the said troops, so serving, the military laws and regulations to which they are subject under the laws of the said State, and for that purpose and for the due preservation of discipline among the same, to convene all such Courts, and to issue all such orders, and authority as may be lawfully convened, issued, passed and exercised by the territorial limits of the said State: Provided always that the execution of every sentence so passed in British territory shall be carried out under the orders of His Highness the Maharaja of Patiala or of some person to whom the requisite authority has been delegated by him.

2. In order further to ensure the efficiency of the said Imperial Service Troops, and the maintenance of discipline among them when serving along with Her Majesty's Forces, the said Maharaja of Patiala has embodied in the disciplinary law of his State, applicable to the said Imperial Service Troops when employed on active service either within or without British India, the provisions, *mutatis mutandis*, of the Indian Articles of War for the time being in force. The due application and enforcement of the said provisions in respect of the Imperial Service Troops aforesaid shall be carried out under the

authority of the Officer Commanding the District, Contingent or Force aforesaid

KANWAR RANBIR SINGH, BAHADUR,	} <i>Members of Administrative Committee, Patiala State.</i>
SIRDAR GURMUKH SINGH, AND	
KHALIFA S. MUHAMMAD HUSSAIN.	

for *His Highness the Maharaja, Chief of the Patiala State.*

SIMLA,  
The 1st July, 1900. }

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Approved and confirmed by the Government of India.

	By order,
	H. S. BARNES,
SIMLA,	} <i>Secy. to the Govt. of India, Foreign Dept.</i>
The 7th May, 1901. }	

(Pages 260 and 261, Atchison's Collection, Vol VIII).

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## APPENDIX B.

### LEADING CASES.

The policy of intervention in the internal affairs of the states has been steadily followed by the Government of India ever since the mutiny. The British Government has based its right of intervention partly on treaties, engagements and sanads ; partly on usage and custom ; and partly on imperial necessity and its position of paramountcy. This policy has been gradually evolved and has been slowly worked up and the jurisdiction has been continuously extended. It can be best understood by reference to those important cases which are supposed to have established definite rights and which have been used as precedents on later occasions. It is for this reason that I have thought it necessary to give below the more important cases.

1. *The Baroda Case*:—It is cited to illustrate the right of the British Government to suspend and to depose a ruler—even of the state of first consequence, as Tupper has put it—in the event of misgovernment. Malhar Rao had become the ruler of Baroda, after the death of his brother in 1870. The story of his rule, suspension and deposition is given by Aitchison as follows:—

“Under Malhar Rao’s rule the maladministration of the State increased, till in 1873 the active interference of the British Government became unavoidable. A commission was appointed for the purpose of making the necessary enquiries ; and its report in March 1874 established so serious an amount of general misgovernment in Baroda that the Gackwar was warned that, unless within a given time he effected essential reforms, the nature and extent of which were fully explained to him, he would be removed from the exercise of power, and such other

arrangements, consistent with the maintenance of the integrity of the Baroda State would be made as might be required to secure a satisfactory administration

In May 1874 Malhar Rao solemnised his marriage with his mistress Lakshmi Bai. In consequence of doubts as to the propriety of this marriage, the Resident was directed not to attend the ceremony. By the tone of his communications to the Resident on this subject, the Gaekwar incurred the grave displeasure of the Bombay Government. Five months after the marriage a son was born, but the Resident did not participate in the ceremonies usually performed at the birth of a legal heir, and the course of events subsequently made it unnecessary for the Government of India to pronounce upon the validity of the marriage. Added to these causes of dissatisfaction with the conduct of the Gaekwar was his treatment of his brother's youngest widow, Jamna Bai, whom he confined to the palace till her life was endangered and did not release till he was warned that he would be held responsible if she suffered any further injury. In the meantime the Gaekwar's marriage with Lakshmi Bai had aggravated the serious differences between him and his nobles, which had been commented on in the report of the commission; the pay of the military classes was greatly in arrear, the Sindis and Arabs in his service were fast getting beyond control, and there seemed to be every prospect of a rebellion. In short, no progress had been made in improving the administration, notwithstanding the Gaekwar's promises to reform.

In November 1874 the Government of India appointed a special officer, Sir Lewis Pelly, to replace Colonel Phayre, the Resident at Baroda, whose personal relations with the Gaekwar were not altogether satisfactory, and to afford the Gaekwar every possible aid in reforming his administration. Colonel Phayre had reported an attempt to poison him, and his successor, Sir Lewis Pelly, was instructed to investigate the case. Evidence was brought to light which tended not only to

substantiate the commission of the attempt, but to throw suspicion on the Gaekwar himself. An enquiry was deemed essential, but, having regard to the antecedents of the Gaekwar, and the discredit thrown on his character by the report of the commission, and to the weight of the evidence brought to light, the Government of India were of opinion that the enquiry would be conducted under disadvantages if Malhar Rao remained in the position of Gaekwar, and that it would be improper to continue friendly communications with him pending the investigation. It was therefore determined to suspend Malhar Rao from power, and to assume on behalf of the British Government the administration of the State pending the result of the enquiry. Troops were accordingly sent to Baroda, Malhar Rao was arrested, and a Proclamation (see page 210) was issued announcing his suspension and the institution of the enquiry. It was announced at the same time that, whatever the results of the enquiry might be, a Native administration would be re-established at Baroda. The charges against Malhar Rao of instigating the attempt to poison Colonel Phayre ; of holding secret communications with certain Residency servants ; and of giving them bribes for improper purposes, were investigated by a commission composed of the Chief Justice of Bengal as president, and Sir Richard Meade, Mr. P. S. Melvill, Maharaja Sindhia, the Maharaja of Jaipur and Sir Dinkar Rao as members. The European members considered the charges proved. Sindhia and Sir Dinkar Rao found the graver imputations not proved, while the Maharaja of Jaipur thought that Malhar Rao was not implicated in any of the charges.

Meanwhile, independently of the enquiry into the attempt to poison Colonel Phayre, much additional proof of Malhar Rao's unfitness for power had been accumulated. As the commissioners were divided in opinion, the final decision of Her Majesty's Government was not based upon the report of the commission, nor did it assume that the result of the enquiry had been to prove the truth of the

imputations against the Gaekwar, but, having regard to all the circumstances relating to the affairs of Baroda from the date of Malhar Rao's accession to power, to his notorious misconduct, his gross misgovernment of the State, and his evident incapacity to carry into effect the necessary reforms, it was resolved that Malhar Rao should be deposed from the position of Gaekwar; and that he and his issue should be precluded from all rights, honours and privileges appertaining thereto

A Proclamation (see page 211) to this effect was issued on the 19th April 1875, and Malhar Rao was deported to Madras."

(Pages 11 to 13 Aitchison's Collection, Vol. VIII)

*Note*—The two Proclamations mentioned above are given in Appendix A.

II *The Mysore Case*—This case also illustrates the right of the Suzerain Power to depose a ruler in the event of gross maladministration. It demonstrates the policy of keeping Indian States intact and avoiding annexation. The Instrument of Transfer, which is given in Appendix A, lays down conditions on which the rendition was made and enumerates the rights and duties of the Paramount Power. But it is pointed out that the conditions laid down and the principles enunciated in the case of Mysore do not apply to those states which existed before the British assumed position of suzerainty in India that they apply only to states which have been created or recreated by the British Government like Mysore

After the death of Tipu and the fall of Seringapatam in 1799 the State of Mysore was restored to the old Hindu dynasty under Krishna Raj Wadiar, a child of three years of age, the grandson of the ruler deposed by Haider Ali forty years before.

"During the minority of the Maharaja the administration was conducted by an able Brahman minister named Purnaiya, who was invested with full powers of

administration. He continued in office till 1812, when he resigned the government into the hands of the Maharaja, leaving in the treasury a sum exceeding two crores of rupees. By a continued course of misgovernment the Maharaja drove the greater part of his subjects into rebellion, which was a danger to the peace of the neighbouring British districts and in 1831 it became necessary for the British Government to interfere. The Maharaja had dissipated all the treasure acquired by the Diwan Purnaiya, and had involved himself deeply in debt. Notwithstanding promises to put restraint on his reckless expenditure, he continued to alienate revenues and sell privileges and State offices, to raise funds for his extravagance. The pay of his troops fell into arrears. Extortions and cruelties were practised ; and there was no hope of redress. The raiyats combined in resistance, and at last rebellion broke out, calling for the active exertions of a large British force in addition to the whole military power of the Maharaja. So gross was the mismanagement and maladministration that it was deemed necessary for the British Government, under the provisions of the Treaty of 1799, to assume the direct management of the State, subject to the claim of the Maharaja, reserved by the treaty, to a provision of one lakh of Star Pagodas a year and one-fifth of the net revenue realised from the territory, until arrangements for the good government of the country should be so firmly established as to secure it from future disturbance."

The Maharaja tried several times for the restoration of his State. When he failed in his attempts he requested that he be allowed to adopt a successor. This was also refused.

"In June 1865, notwithstanding the earlier decision of the Government, the Maharaja adopted Chamarajendra Wadiar Bahadur, a child  $2\frac{1}{2}$  years of age, and a member of The Bettada Koté branch of the ruling family, as successor to all his rights and privileges. The Government of India declined to recognise the adoption, or to



accord the Maharaja's adopted son the honours and privileges due to the heir to the State of Mysore

In the following year the Maharaja again urged the question of the recognition of his adopted son, and in April 1867 his requests met with a favourable response. Without entering into any minute examination of the terms of the treaty of 1799, the British Government recognised in the policy which dictated that settlement a desire to provide for the maintenance of an Indian dynasty in Mysore upon terms which should at once afford a guarantee for the good government of the people and for the security of British rights and interests. Having regard to the antiquity of the Maharaja's family, its long connection with Mysore, and the personal loyalty and attachment to the British Government which the Maharaja had manifested, *the British Government desired to maintain that family on the gadi in the person of the Maharaja's adopted son, upon terms corresponding with those made in 1799, so far as the altered circumstances of the time would allow.* But before replacing the people of Mysore, in whose welfare the British Government felt peculiar interest, owing to their having so long been under British administration, under the rule of a Native ruler, it was held that it would be necessary both to give the young Chief an education calculated to prepare him for the duties of administration, and also to enter into an agreement with him as to the principles upon which he should rule the country. If at the demise of the Maharaja the young prince should not have attained his majority, the Mysore territory should, it was decided, continue to be governed in his name upon the same principles and under the same regulations as might be then in force.

Maharaja Krishna Raj Wadiar, who had been appointed to be a Knight Grand Commander of the Most Exalted Order of the Star of India, survived only a year after the completion of this arrangement, and died on the 27th March 1868 at the age of seventy four. A Proclamation (No. XLVI) was issued acknowledging the

succession of Chamrajendra Wadiar, and stating that during his minority the Mysore territory would be administered in his name by the British Government ; and that if on his attaining the age of eighteen years he should be found qualified for the discharge of the duties of his position, the Government of the country would be entrusted to him, subject to such conditions as might be determined at that time. The Maharaja was accordingly publicly installed by the Commissioner of Mysore on the 23rd September 1868."

"On the 5th March 1881, the Maharaja Chamrajendra Wadiar Bahadur attained the age of 18 years ; and on the 25th of the same month the rendition of Mysore to native rule was effected by the installation of the young Chief as Maharaja of Mysore under a Proclamation (No. XLVII) of the Viceroy and Governor-General of India in Council. The Maharaja at the same time signed a Sanad or Instrument of Transfer (See page 213) describing in twenty-four articles the conditions upon which the administration of the Mysore State was transferred to him by the British Government. By the fifth article the subsidy of twenty-five lakhs of rupees a year hitherto paid to the British Government by Mysore was enhanced to thirty-five lakhs. On the 5th of April 1881, the Maharaja signed a Deed of Assignment (No. XLIX) making over (with effect from the date of his accession, *viz.*, the 25th March 1881) free of charge, to the exclusive management of the British Government, for the purposes stated in article 9 of the Instrument of Transfer, all lands forming the Civil and Military station of Bangalore and certain adjacent villages, as described in the schedule attached to the lands so assigned. The boundaries of these lands were slightly altered in 1883, 1888, 1896 and 1903. The fort of Bangalore was in 1888 restored to the Darbar in exchange for the Bangalore Residency house and grounds, which were then incorporated in the Civil and Military Station. The area of the Bangalore Assigned Tract is 13 square miles, with a population according to the Census of 1901, of 89,599. The

revenues of this tract, derived chiefly from excise, are devoted to the expenses incurred in its administration. The water-supply is obtained from the Chamrajendra Reservoir under an agreement concluded with the Darbar in January 1897. From the date of the rendition the Chief Commissioner of Mysore became Resident in Mysore and Chief Commissioner of Coorg. He is invested with the powers of a Local Government and of a High Court in respect of the Bangalore Assigned Tract."

(Pages 186 to 188, Aitchison's Collection, Vol IX)

NOTE—The Instrument of Transfer is given in full in Appendix A.

III. THE MANIPUR CASE—"The importance of the case of Manipur lies" says Sir William Lee-Warner "not in the preservation of Native Rule, but in the principles which were enunciated and approved by the highest authority. These principles were the repudiation by the Government of India of the application of International law to the protected States, the assertion of their right to settle successions and to intervene in a case of rebellion against a chief; the doctrine that resistance to Imperial orders constitutes rebellion, and the right of the Paramount Power to inflict capital punishment on those who had put to death its agents while discharging the lawful duty imposed upon them."

The facts of the case may be stated briefly as follows. Manipur is a small State situated on the borders of Assam and Burma. During the whole of the 19th century there were constant risings and rebellions and fights for the throne, which changed hands a number of times. "In September 1890 Maharaja Sir Chandra Singh fled from his state, whilst his younger brother, the Senapati, having seized the palace and the arsenal, prepared to resist the return of the lawful ruler. The Yubraj, or Heir-apparent, who was absent at the time of the Revolution, then returned to Manipur, and assumed the Raj with the support of the rebel Senapati." The British Government refused

help to the dispossessed ruler who had formally abdicated before leaving the State and decided to recognise the Jubraj as Maharaja but to make things safe and certain ordered the removal of the rebel Senapati. The Chief Commissioner, Mr. Quinton, who had gone to Manipur to enforce the order of removal was murdered with four other British officers.

"An expedition was then ordered to Manipur to reassert the political supremacy of the British Government, and to enforce the unconditional submission of the Darbar. . . . The force marched in three columns from Kohima, Silchar, and Tamnu, all of which reached the capital on the 27th April, 1891. The Tamnu column was the only one which met with resistance, the other two columns entering Manipur unmolested. On arrival the force found the capital deserted; the arsenal with its guns had been destroyed, and the principal houses had been looted by the villagers. The regent, the Senapati, and the other brothers had taken to flight, and the leading officials were in hiding. Within a month all were captured, and the Senapati and the two elder brothers were tried by a special commission, at which Tekendrajit Bir Singh, *alias* the Senapati, was convicted of waging war against the Queen-Empress and of abetment of the murder of British officers; he was sentenced to death and hanged, as was also the Tongal (Tangkhul) General, who was convicted on the same charges by the Chief Political Officer with the force. Kula Chandra Dhaja Singh and his brother were also convicted of the first mentioned charge, and were sentenced to transportation for life along with thirteen other persons. In September 1891, the question of the future of the Manipur State was decided by His Excellency the Governor-General in Council, and Chura Chand, a minor, born on the 15th April 1885, the son of Chowbi Yaima, and a grandson of Nar Singh, was selected as Raja and granted a salute of 11 guns. It was further ordered that the Chiefship of the Manipur State, and the title and salute would be hereditary, and would descend

in the direct line by primogeniture, provided that in each case the succession was approved by the Government of India."

The Important portions of the Government Despatches and Notifications on the case are quoted by Sir Lee-Warner and are given here for ready reference —

"Her Majesty's Government wrote in the Despatch of the Secretary of State, dated the 24th of July, 1891, as follows — "Of the right of the Government of India to interfere after the forcible dispossession of the Mahajara there can be no question. It is admittedly the right and the duty of Government to settle successions in the Protected States of India generally." "Your interference was necessary also in the interests of the British Government, which has of late years been brought into much closer relations with the state and its subject tribes than was formerly the case, and cannot safely tolerate disorders therein." The Government of India in their Telegraphic Despatch, dated 5th June 1891, were even more specific. — "Every succession must be recognised by the British Government and no succession is valid until recognition has been given. This principle is fully understood and invariably observed." As this public Notification, published in the Gazette of India of the 22nd of August, 1891, page 485 explained, the strict rules of International law have no bearing upon the relations between the Government of India as representing the Queen-Empress on the one hand, and the Native States under the suzerainty of Her Majesty on the other. The Paramount supremacy of the former presupposes and implies the subordination of the latter. In the exercise of their high prerogatives, the Government of India have, in Manipur as in other protected states, the unquestioned right to remove by administrative order any person whose presence in the state may seem objectionable. The rule was therefore laid down that "any armed and violent resistance to the arrest of such person was an act of rebellion, and can no more be justified by a plea of self-defence than

could resistance to a police officer armed with a Magistrate's warrant in British India." If the unlawful resistance led to the death of the agents of Government, then the persons who caused their death were guilty of murder. Therefore it was proclaimed at Manipur on the 13th of August, 1891, "It is hereby notified for the information of the subjects of the Manipur state, that Tekendrajit Bir Singh, alias the Jubraj of Manipur was in the month of June tried by Special Commission, and convicted of waging war against the Queen-Empress of India and abetment of the murder of British officers and was sentenced to be hanged which sentence has been confirmed by the Government of India and will be duly carried out." Then followed other sentences commuted to transportation for life and forfeiture of all property. The proclamation ended thus: "The subjects of the Manipur state are enjoined to take warning by the punishments inflicted on the above named persons found guilty of rebellion and murder."

NOTE.—See pages 179 to 183 "The Native States of India" by Sir William Lee-Warner and Aitchison's Collection, Vol. II, pages 258 to 264.

IV. THE NABHA CASE :—The Nabha case is only one of the several recent cases of veiled deposition or enforced abdication. It illustrates the change in the policy of the Government of India. The Government is now anxious to avoid having recourse to open deposition, as it creates general discontent among the Princes. On the other hand it tries to achieve the object by forcing the Prince in question to "voluntary abdication." The Patiala Darbar had brought forward eight definite cases against the Nabha Durbar. The Government appointed a High Court Judge, Mr. Justice Stuart, as a Special Commissioner to inquire into the cases and report his findings. According to Mr. Justice Stuart's Report two cases were not proved, but the findings were against the Nabha Durbar in the other six cases. The Report

involved the Maharaja (Ripudaman Singh) in all these cases. As the Resolution of the Political Department on the case puts it.—“Ever since the Maharaja of Nabha succeeded his father, the Government of India have had abundant evidence that the whole policy of the State has been dominated by his personality, and it is inconceivable that the perversion of justice could have been reduced to a system of offence against Patiala, without the Maharaja's full general approval and active countenance ”

The Government charged the Maharaja with breach of the engagements. As the Resolution puts it.—“The Darbar has apparently forgotten the Sanad of 1860 does not merely confer privileges, but that it also imposes obligations. Under Clause IV, the ruler of Nabha is bound to ‘exert himself to every possible means in promoting the welfare of his people and the happiness of his subjects redressing the grievances of the oppressed and injured in the proper way.’ Clause V and X bind him to loyalty and obedience to the British Crown and the British Government in India. All these obligations have been broken. The deliberate perversion of justice is a clear breach of Clause IV, the forcible infraction of Patiala's territorial rights is a breach of allegiance to the Crown, and the deliberate orientation of the policy of the Darbar towards the prosecution by force and fraud of the Darbar's own feud with its neighbour is a breach of the spirit of the well-known canon which prohibits hostilities between States.”

The Resolution ends as follows —

“The Government of India have been unable to trace any instance in the past in which they have been called on to pass orders on a case parallel to the present one, and they cannot conceive any more subtle or insidious form of oppression than the deliberate and methodical perpetration of injustice under cover of legal forms. It is not necessary to record here the measures which the Government of India would have been compelled to take in this

case, because, while these measures were under consideration, the Maharaja of Nabha on his own initiative visited the agent to the Governor-General, Punjab States at Kasauli, and voluntarily expressed his desire to sever his connection with the administration of the state upon certain conditions. The Governor-General in Council has felt some hesitation in accepting this offer; but after a careful examination of the circumstances he has come to the conclusion that if certain necessary conditions are imposed, the offer may be accepted and that the advantages of a speedy settlement outweigh other considerations."

The Maharaja was allowed to reside at Dehra Dun and was given an allowance of Rs. 25,000 a month from the revenues of the state which was placed in charge of a European Administrator. Five years after, however, he was deprived of the title of Maharaja and his allowance was reduced to Rs. 10,000 a month and he was deported to Kodaikanal in the Madras Presidency and placed under personal restraint. His minor son, Pratap Singh, was recognised as Maharaja by a *Kharita* which was delivered to him on the 23rd February, 1928.

V. THE UDAIPUR CASE:—It illustrates the manner in which "voluntary abdications" are generally arranged. The attempt in this case was unsuccessful because the British Government was anxious to avoid any general discontent among the Princes.

In 1921 there was something like an open outbreak in Udaipur owing to agrarian difficulties. It was suppressed by the State forces without much difficulty or outside help. Nonetheless the Agent to the Governor-General took the opportunity of criticising the administration of the Maharana and of telling him that he was too old to carry on the centralised administration of the State and that he should abdicate and leave the work to more capable hands. The Maharana naturally resented the insult and wrote to the Government of India pointing out the dangers of the situation. He wrote:—"The importance of this to the



Indian States can scarcely be exaggerated. The more closely it is studied the more apparent does it become that the treatment of Udaipur is at variance with those expressions of policy contained in Chapter X of the Report on Indian Constitutional Reforms published in 1918. That report lays down the principle that in a composite society like India's, and in times when ideas are changing rapidly, the existence of states in which ideas of chivalry and personal devotion survive as the motive principle of the government has been more clearly seen to have an abiding value." The letter then refers to the existence of apprehension in the minds of the Princes that their rights and privileges are not safe and may disappear altogether in course of time, and adds — "There is a good ground now for that apprehension, that after the premp-tory demand that His Highness should abdicate, no state can feel secure from intervention, even though there does not exist the one stipulated condition precedent to intervention." The Maharana ended by expressing his willingness to rectify the cause of complaint and to delegate some powers to his son. The Government of India accepted the suggestion and associated his son in the administration of the State.

*Note* —For the last two cases, see pages 64 to 70 Panikkar "Relations of Indian States to the Government of India."

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## APPENDIX C.

## SALUTE STATES AND MEMBERSHIP OF THE CHAMBER OF PRINCES.

According to the list published by the Government of India in 1927 there are 118 states, whose rulers receive Salutes in guns when they enter or leave British or State territory. These states are classified below first according to the number of guns fired in honour of their rulers and then arranged, in each class, in alphabetical order.

The rulers of 108 states out of the 118 salute states are members of the Chamber of Princes in their own right. Those ten states, whose rulers are not members of the Chamber of Princes in their own right are marked by an asterisk in the Table of Salutes. Besides the 108 members there are 12 others who represent 127 States. The remaining 327 states are not represented in the Chamber. The twelve representative members are at present the rulers of (1) Alirajpura, (2) Baghat, (3) Bhor, (4) Bilkha (5) Gangpur, (6) Jetpur, (7) Kalhandi, (8) Kalsia, (9) Korea, (10) Naudgaon, (11) Sayla, and (12) Talasher.

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
1	Baroda . . . . .	His Highness Farzand-i-Khas-i-Daulat-i-Inglishia Maharaja Sir Sayaji Rao Gaekwar Sena Khas Khel Shamsheer Bahadur, G.C.S.I., G.C.I.E., Maharaja of— . . . . .	21	...	...

No	NAME OF STATE.	Name and title of Ruler	Salute in Guns.		
			Permanent	Personal	Local.
2	Gwalior . . . .	His Highness Maharaja Mukhtar-ul-Mulk, Azim-ul-Iqtidar, Rafiush-Shan, Wala-Shukoh, Mohtasham-i-Dauran, Umdat-ul-Umara. Maharajadhiraja Abjadh Hisamud-Saltanat George Jiwaji Rao Scindia, Bahadur, Shrinath, Mansur-i-Zaman, Firdaws-i-Hazrat-i-Malik-i-Muazzam-i-Raf-i-Darjat-i-Inglistan, Maharaja of—	21	...	...
3	Hyderabad . . . .	Lieutenant-General His Exalted Highness Asaf Jah Nuzaffar-ul-Mulk wal Mamalik, Nizam-ul-Mulk Nizam-ud-Daula, Nawab Sir Mir Usman Ali Khan, Bahadur, Fatch Jang, Faithful Ally of the British Government, GCSI, GBE, Nizam of—	21	...	...
4	Jammu and Kashmir . . . .	Colonel His Highness Maharaja Sir Hari Singh Indar Mahindar Bahadur Sipar-i-Saltanat. KCIE, KCV O. Maharaja of—	21	...	...
5	Mysore . . . .	Colonel His Highness Maharaja Sir Sri Krishnaraja Wodeyar Bahadur. GCSI. GBE, Maharaja of—	21	...	...

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
6	Bhopal . . . . .	<i>Lieutenant-Colonel</i> His Highness Nawab Haji Muhammad Hamidulla Khan Bahadur, C.S.I., C.V.O., Nawab of—. . . . .	19	...	21
7	Indore . . . . .	His Highness Maharajadhiraja Raj Rajeshwar Sawai Shri, Yeshwant Rao Holkar Bahadur, Maharaja of—. . . . .	19	...	21
8	Kalat . . . . .	His Highness Reglar Begi Mir Sir Mahmud Khan G.C.I.E., Wali of—. . . . .	19	21	...
9	Kolhapur . . . . .	<i>Lieutenant-Colonel</i> His Highness Shri Sir Rajaram Chhatrapati Maharaj, G.C.I.E., Maharaja of—. . . . .	19	...	...
10	Travancore . . . . .	His Highness Sri Padmanabha Dasa Vanchi Pala Rama Varma Kulasekhara Kiritapati Manney Sultan Maharaja Raja Ramaraja Bahadur Shamsheer Jang, Maharaja of—. . . . .	19	...	...
11	Udaipur (Mewar) . . . . .	His Highness Maharajadhiraja Maharana Sir Fateh Singh Bahadur, G.C.S.I., G.C.I.E., G.C.V.O., Maharana of—. . . . .	19	21	21

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns		
			Permanent	Personal	Local.
12	Bahawalpur . . .	<i>Captain His Highness Ruku-ud-Daula, Nusrat-i-Jang, Hafiz-ul-Mulk, Mufnis-ud-Daula, Nawab Sir Sadiq Muhammad Khan, Abbas, Bahadur, K.C.V.O., Nawab of—</i>	17	...	...
13	Bharatpur . . .	<i>Lieutenant-Colonel His Highness Maharaja Sri Brajendra Sawai Sir Kishan Singh Bahadur, Bahadur Jang, K.C.S.I., Maharaja of—, (died on the 27th March, 1929) (The state is under a European Administrator)</i>	17	...	19
14	Bikaner . . .	<i>Major-General His Highness Maharajahiraja Raj Rajeshwar Siromani Sir Siv Ganga Singh Bahadur, G.C.S.I., G.C.I.R., G.C.V.O., G.B.R., K.C.B., LL.D., A.D.C., Maharaja of—.</i>	17	19	19
15	Bundi . . .	<i>His Highness Maharao Raja Ishwari Singh Bahadur, Maharao, Raja of—</i>	17	...	...
16	Cochin . . .	<i>His Highness Maharaja Sri Sir Rama Varmah, G.C.I.R., Maharaja of—</i>	17	...	...
17	Cutch . . .	<i>His Highness Maharaja Dhiraaj Mirza Maharao Shri Sir Khengarji, Savai Bahadur, G.C.S.I., G.C.I.R., Maharao of—.</i>	17	...	19

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
18	Jaipur . . . . .	His Highness Saramad-i-Kajala-i-Hindustan Raj Rajindra Sri Maharajadhiraja Sawai Man Singh Bahadur, Maharaja of— . . . .	17	...	19
19	Jodhpur (Marwar) .	Major His Highness Raj Rajeshwar Maharajadhiraja Sir Unaid Singh Bahadur K.C.S.I., K.C.V.O., Maharaja of— . . . . .	17	...	19
20	Karauli . . . . .	His Highness Maharaja Bhompal Deo Bahadur Yadukul Chandra Bhal, Maharaja of— . . . .	17	...	...
21	Kotah . . . . .	Lieutenant-Colonel His Highness Maharao Sir Umed Singh Bahadur, G.C.S.I., G.C.I.E., G.B.E., Maharao of— . . . . .	17	19	...
22	Patiala . . . . .	Major-General His Highness Farzand-i-Khas-i-Daulat-i-Inglishia, Maksud-i-Zaman Amir-ul-Umra Maharajadhiraja, Rajeshwar Sri Maharaja-i-Rajagau, Sir Bhupinder Singh Mahindar Bahadur, G.C.S.I., G.C.I.E., G.C.V.O., G.B.E., A.-D.-C., Maharaja of— . . . .	17	19	19
23	Rewa . . . . .	His Highness Maharaja Sir Gulab Singh Bahadur, K.C.S.I., Maharaja of— . . . .	17	...	...

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent	Personal.	Local.
24	Tonk . . . .	His Highness Amm-ud-Daula Wazir-ul-Mulk Nawab Sir Muhammad Ibrahim Ali Khan Bahadur Sanlat-i-Jang, G.C.S.I., G.C.I.E., Nawab of— . . . . .	17	19	..
25	Alwar . . . .	Colonel His Highness Sewai Maharaj Shri Jey Singhji, G.C.S.I., G.C.I.E., Maharaja of— .	15	17	17
26	Bauswara . . . .	His Highness Sri Rai-i-Rayan Maharwal Pirithi Singh Bahadur, Maharawal of— .	15	..	..
27	Datia . . . .	Major His Highness Maharaja, Lokendra Sir Govind Singh Bahadur, K.C.S.I., Maharaja of— . . . . .	15	..	..
28	Dewas (Senior Branch) . . . .	His Highness Maharaja Sir Tukoji Rao Puar, K.C.S.I., Maharaja of— . . . . .	15	..	..
29	Dewas Junior Branch) . . . .	His Highness Maharaja Sir Malhar Rao Baba Sahab Puar, K.C.S.I., Maharaja of— . .	15	..	..
30	Dhar . . . .	His Highness Maharaja Anand Rao Puar, Maharaja of— . . . . .	15	..	..

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
31	Dholpur . . . . .	<i>Lieutenant-Colonel</i> His Highness Rais-ud-Daula Sipahdar-ul-Mulk Maharajadhiraja Sri Sawai Maharaj-Rana Sir Udaibhan Singh Lokindar Bahadur Diler Jang Jai Deo, K.C.S.I., Maharaj Rana of—. . . . .	15	17	...
32	Dungarpur . . . . .	His Highness Rai-i-Kayan Maharawal Sri Lakshman Singh Bahadur, Maharawal of—. . . . .	15	...	...
33	Idar . . . . .	<i>Lieutenant-Colonel</i> His Highness Maharaja Sir Daulat Singhji, K.C.S.I., Maharaja of—. . . . .	15	...	...
34	Jaisalmer . . . . .	His Highness Maharajadhiraja Maharawal Sir Jowahir Singh Bahadur, K.C.S.I., Maharawal of—. . . . .	15	...	...
35	Khairpur . . . . .	His Highness Mir Ali Navaz Khan Talpur, Mir of—. . . . .	15	...	17
36	Kishengarh . . . . .	His Highness Umdae Rajahae Baland Makan Maharajadhiraja Yagyanarain Singh Bahadur, Maharaja of—. . . . .	15	...	...
37	Orchha . . . . .	His Highness Saramad-i-Rajaha-i-Bundelkhand Maharaja Mahindra Sawai Sir Pratap Singh Bahadur, G.C.S.I., G.C.I.E., Maharaja of—. . . . .	15	17	...



No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
38	Pratabgarh . . .	His Highness Maharawat Sir Raghunath Singh Bahadur, K C I E, Maharawat of—. . .	15	...	...
39	Rampur . . .	Colonel His Highness Alifjah Parzand-Dolgazir-i-Daulat-i-Janglabia Mokhlis-ud-Doula Nasir-ud-Malik, Amir-ul-Umara, Nawab Sir Sayyid Muhammad Hamid Ali Khan Bahadur Mustaid Jang, G C S I., G C I E., G C V O. A D C, Nawab of—. . .	15	...	...
40	Sikkim . . .	His Highness Maharaja Sir Tasbi Namgyal, K C I E., Maharaja of—. . .	15	...	...
41	Sirohi . . .	His Highness Maharajadhiraja Maharao Sir Sarup Ram Singh Bahadur, K C S I. Maharao of—. . .	15	...	...
42	Benares . . .	Lieutenant Colonel His Highness Maharaja Sir Prabhu Narayan Singh Bahadur, G C S I., G C I E., LL D., Maharaja of—. . .	15	...	...
43	Dhavanagar . . .	His Highness Maharaja Shri Krishna Kumar-singh Bhavanshy, Maharaja of—. . .	15	...	...

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
44	Cooch Behar . . .	His Highness Maharaja Jagaddipendra Narayan Bhup Bahadur, Maharaja of—. . . . .	13	...	...
45	Dharugadhara . .	His Highness Maharaja Shri Sir Ghanshyamshinji Ajitsinhji, G.C.I.E., K.C.S.I., Maharaja Raj Saheb of—. . . . .	13	...	...
46	Jaora . . . . .	Lieutenant-Colonel His Highness Fakhr-ud-Daula Nawab Sir Muhammad Iftikhar Ali Khan, Bahadur, Saulat Jang, K.C.I.E., Nawab of—. . . . .	13	...	...
47	Jhalawar . . . .	His Highness Maharaj-Rana Sir Bhawani Singh Bahadur, K.C.S.I., Maharaja Rana of—. .	13	...	...
48	Jind . . . . .	Colonel His Highness Farzand-i-Dilband Rasikh-ul-Itkad Daulat-i-Inglishta Raja-i-Rajagan Maharaja Sir Raubir Singh, Rajendra Bahadur, G.C.I.E., K.C.S.I., Maharaja of—. .	13	15	15
49	Junagadh . . . .	His Highness Nawab Sir Mahabatkhan Rasulkhan, K.C.S.I., Nawab of—. . . . .	13	15	15

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
50	Kapurthala . . .	Colonel His Highness Farzand-i-Dulband Rasikh-ul-Idqad-i-Danlat-i-Jingishia Rajah-Rajagan, Maharaja Sir Jagatjit Singh Bahadur, GCSI, GCIB, Maharaja of—	13	15	15
51	Nabha . . . . .	(Since 1923 the State is in charge of an European Administrator)	13	...	15
52	Nawanagar . . .	Lieutenant-Colonel His Highness Maharaja Jam Shri Sir Ranjitsinhji Vibhaji, GCSI, GDI, Maharaja Jam Sahib of— . . .	13	15	15
53	Palampur . . .	Captain His Highness Nawab, Sir Tale Mahammad Khan Sher Mahammad Khan, KCI R, KCV O, Nawab of— . . . . .	13	...	..
54	Porbandar . . .	His Highness Maharaja Shri Natvarsingh Bhavsingh Maharaja Rana Sahib of—	13	...	...
55	Rajpipla . . .	Captain His Highness Maharaja Shri Sir Vijayasinhji Chhatrasinhji, KCSI, Maharaja of— . . . . .	13	...	...
56	Ratham . . .	Colonel His Highness Maharaja Shri Sajjan Singh, KCSI, KCV O, Maharaja of—	13	...	15

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
57	Tripura . . . . .	His Highness Maharaja Manikya Bir Bikram Kishore Deb Barman Bahadur, Maharaja of— . . . . .	13	..	..
58	Ajaigarh . . . . .	His Highness Maharaja Sawai Bhupal Singh Bahadur, Maharaja of— . . . . .	11	..	..
59	Alirajpur . . . . .	His Highness Raja Pratap Singh, C.I.E., Raja of— . . . . .	11	..	..
60	Baoni . . . . .	His Highness Azam-ul-Umara Iftikhar-ud-Daulah Imad-ul-Mulk Sahib-i-Jah Mubin Sardar Nawab Mohamud Mushtaq-ul-Hassan Khan, Safdar Jung, Nawab of— . . . . .	11	..	..
61	Barwani . . . . .	Captain His Highness Rana Sir Ranjit Singh, K.C.I.E., Rana of— . . . . .	11	..	..
62	Bijawar . . . . .	His Highness Maharaja Sawai Sir Sawant Singh Bahadur, K.C.I.E., Maharaja of— . . . . .	11	..	..
63	Bilaspur (Kahlur) . . . . .	Major His Highness Raja Sir Bije Chand, K.C.I.E., C.S.I., Raja of— . . . . .	11	..	..
64	Cambay . . . . .	His Highness Nawab Mirza Husain Yawar Khan Saheb Bahadur, Nawab of— . . . . .	11	..	..

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns		
			Permanent	Personal	Local.
65	Chamba . . . .	His Highness Raja Ram Singh, Raja of—.	11	...	...
66	Charkhari . .	His Highness Maharajaduraja Sipahdar-ul-Mulk Armand Singh Ju Deo Bahadur, Maharaja of— . . . . .	11	...	...
67	Chhatarpur . . .	His Highness Maharaja Vishwanath Singh Bahadur, Maharaja of— . . . .	11	...	...
68	Faridkot . .	His Highness Farranda-Saadat Nishan-i-Hazarat-i-Kaisar-i-Hind Barar Bans Raja Har Indar Singh Bahadur, Raja of—, . . . .	11	...	...
69	Gondal . . . .	His Highness Maharaja Shri Sir Bhagvatsinghji Sagramji, G C I E., Maharaja of—, . . . .	11	...	...
70	Jafrahad . . (belongs to the Nawab of Janjira)	His Highness Nawab Sidi Muhammed Khan Sidi Ahmad Khan, Nawab of Janjira . .	11	...	13
71	Janjira . . . .	His Highness Nawab Sidi Muhammad Khan Sidi Ahmad Khan, Nawab of Janjira. . .	11	...	13
72	Jhabsa . . . . .	His Highness Raja Udal Singh, Raja of— . .	11	...	...

	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
73	Malerkotla . . . .	<i>Lieutenant-Colonel His Highness Nawab Sir Ahmad Ali Khan, Bahadur, K.C.S.I., K.C.I.E., Nawab of—.</i> . . . .	II	...	...
74	Mandi . . . .	<i>Lieutenant His Highness Raja Jogindra Sen, Bahadur, Raja of—.</i> . . . .	II	...	...
75	Manipur . . . .	<i>His Highness Maharaja Chura Chand Singh, C.B.E., Maharaja of—.</i> . . . .	II	...	...
76	Morvi . . . .	<i>His Highness Maharaja Shri Lakhdhirji Waghji, Maharaja of—.</i> . . . .	II	...	...
77	Narasingharh . .	<i>His Highness Raja Vikram Singh, Raja of—.</i>	II	...	...
78	Panna . . . .	<i>His Highness Maharaja Mahendra Sir Yadavendra Singh Bahadur, K.C.I.E., Maharaja of—.</i> . . . .	II	...	...
79	Pudukkottai . .	<i>His Highness Sri Raja Rajgopala Tondiman Bahadur, Raja of—.</i> . . . .	II	...	...
80	Kadhaupur . . .	<i>His Highness Jalauddin Khan Bismillah Khan, Babi, Nawab of—.</i> . . . .	II	...	...

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Gun.		
			Permanent.	Personal.	Local.
81	Rajgarh . . . .	His Highness Raja Sir Brindra Singh, K.C.I.E., Raja of— . . . . .	11	...	...
82	Sailana . . . . .	His Highness Raja Dileep Singh, Raja of— . . . . .	11	...	...
83	Samthar . . . . .	His Highness Maharaja Sir Bir Singh Deo Bahadur, K.C.I.E., Raja of— . . . . .	11	...	...
84	Sirmur (Nahan)	Lieutenant-Colonel His Highness Maharaja Sir Amar Prakash, Bahadur, K.C.S.I., K.C.I.E., Maharaja of— . . . . .	11	...	...
85	Sitawan . . . . .	His Highness Raja Sir Ram Singh, K.C.I.E., Raja of— . . . . .	11	...	...
86	Suket . . . . .	His Highness Raja Lakshman Sen, Raja of— . . . . .	11	...	...
87	Tehri . . . . . (Garhwal)	Captain His Highness Raja Narendra Shah, C.S.I., Raja of— . . . . .	11	...	...
88	Balasinor . . . . .	Nawab Jamiat Khan Manowar Khan, Nawab of— . . . . .	9	...	...
89	Banganapalle . . . . .	Nawab Saiyid Fazle Ali Khan Bahadur, Nawab of— . . . . .	9	...	...

No.	NAME OF STATE.	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
90	Bansda . . . . .	Maharawal Shri Indrasinhji Pratapsinhji, Raja of— . . . . .	9	...	...
91	Baraundha . . . . . (Pathar Kachhar)	Raja Gaya Pershad Singh, Raja of— . . . . .	9	...	...
92	Baria . . . . .	<i>Captain</i> His Highness Maharawal Shri <i>Sir</i> Ranjitsinhji Mansinhji, K.C.S.I., Raja of— . . . . .	9	11	...
93	Bashahr* . . . . .	Raja Padam Singh, Raja of— . . . . .	...	9	...
94	Chhota Udepur . . . . . (Mohar).	Maharawal Shri Natvarsinhji Fatehsinhji, Raja of— . . . . .	9	...	...
95	Danta . . . . .	Maharana Shri Bhavansinhji Hamirsinhji, Maharana of— . . . . .	9	...	...
96	Dharnapur . . . . .	Maharana Shri Vijayadevi Mohandevji, Raja of— . . . . .	9	...	...
97	Dhrol . . . . .	Thakor Saheb Shri Daulatsinhji Harisinhji Thakor Saheb of— . . . . .	9	...	...
98	Jawhar . . . . .	2nd-Lieutenant Vikramshah Patangshah, Raja of— . . . . .	9	...	...



No.	Name of State.	Name and title of Ruler.	Salute in Guns.		
			Permanent	Personal.	Local.
99	Kalahandi . . .	Maharaja Brj Mohan Deo, O.B.E., Raja of—	9	...	...
100	Khulchpinr . .	Rao Bahadur Durjan Sal Singh, Rao Bahadur of— . . . . .	9	...	...
101	Limbdi . . . . .	Thakor Sahab Shri Sur Daulatsinhji Jestsat-sinhji, K.C.I.B., Thakor Sahab of—	9	...	...
102	Loharu . . . . .	Nawab Mirza Amin-ud-Din Ahmad, Khan Bahadur, Nawab of— . . . . .	9	...	...
103	Lunawada . . . .	His Highness Maharana Shri Sir Wakhat-sinhji Dalesinhji, K.C.I.B., Raja of—	9	"	...
104	Mahar . . . . .	Raja Brynath Singh, Raja of— . . . . .	9	...	..
105	Mayurbhanja . . .	Lieutenant Maharaja Purua Chandra Bhanja Deo, Maharaja of— . . . . .	9	...	...
106	Medhol . . . . .	Lieutenant Meherban Raja Sir Malottrao Venkatarao Raja Ghorpade alias Nanasaheb, K.C.I.B., Raja of— . . . . .	9	...	...
107	Nagod* . . . . . (Unchehra)	Raja Mahendra Singh, Raja of— . . . . .	9	...	...

No.	Name of State	Name and title of Ruler.	Salute in Guns.		
			Permanent.	Personal.	Local.
108	Palitana . . . . .	Thakor Saheb Shri Bahadursinhji Mansinhji, Thakor Saheb of— . . . . .	9	...	...
109	Patna* . . . . .	Maharaja Rajendra Narayan Singh Deo, Maharaja of— . . . . .	9	...	...
110	Rajkot . . . . .	Thakor Saheb Shri Sir Lakhaji Raj Bavaji Raj, K.C.I.E., Thakor Saheb of— . . . . .	9	...	...
111	Sachin . . . . .	Major His Highness Nawab Sidi . . . . . Ibrahim Mahomed Yakut Khan, Mubazarat Danla Nasrat Jung Bahadur, Nawab of— . . . . .	9	...	...
112	Sangli . . . . .	Lieutenant Meherban Sir Chintamanrao Dhundirao alias Appasaheb Patwardhan, K.C.I.E., Chief of— . . . . .	9	...	...
113	Sant* . . . . .	Maharana Shri Jorawarsinhji Pratapsinhji, Raja of— . . . . .	9	...	...
114	Savantvadi . . . . .	Captain His Highness Raje Bahadur Shrimant Khem Savant Bhonsle alias Bapu Saheb, Sar Desai of— . . . . .	9	...	II
115	Shahpur* . . . . .	Rajadhiraja Sir Nahar Singhji, K.C.I.E., Raja of— . . . . .	9	...	...

No.	Name of State.	Name and title of Ruler.	Salute in Guns.		
			Permanent	Personal.	Local.
116	Sonpur . . .	Maharaja Sir Bir Nitrodaya Singh Deo, K C I E, Maharaja of— . . .	9	...	...
117	Wankar . . .	Captain His Highness Maharaja Shri Sir Amarsinhji Dancesinhji, K C I E, Raja Sahab of— . . .	9	11	..
118	Wadhwan . . .	Thakor Sahab Shri Jorawarsinhji Jasvatsinhji, Thakor Sahab of— . . .	9	..	...

## APPENDIX D.

## BIGGER STATES: A TABLE.

Table showing the area, population, revenue, etc., of the 41 States which alone deserve to be called large States.

In framing this table I have proceeded on the following considerations:—

The Table includes:—

(1) All those States which have a revenue of Rs. 50 lakhs a year or more;

(2) Those States which have a revenue of not less than Rs. 10 lakhs and whose rulers are entitled to a salute of not less than 15 guns each;

(3) Those States whose rulers enjoy a Salute of more than 15 guns each, although the revenue of the States is less than Rs. 10 lakhs.

All these States are arranged finally on the basis of their annual revenue.

Order No.	Name of the State.	Area in Sq. miles.	Population.	Revenue in Rupees.	Salute in Guns.		
					Permanent.	Personal.	Local.
1	Hyderabad . . . . .	82,698	12,471,770	6,53,51,000	21	...	...
2	Mysore . . . . .	29,528	5,859,952	3,46,37,000	21	...	...
3	Baroda . . . . .	8,135.2	2,126,522	2,37,07,000	21	...	...

Order No.	Name of the State.	Area in Sq. miles	Population.	Revenue in Rupees	Salute in Guns.		
					Permanent	Personal.	Local
4	Jammu and Kashmir	80,000	3,322,030	2,27,77,000	22	..	..
5	Tranvancore	7,625	4,006,062	2,21,88,000	19	..	..
6	Gwalior	26,382.55	3,195,476	2,14,00,000	21	..	..
7	Patiala	5,932	1,499,739	1,28,50,000	17	19	19
8	Indore	9,519	1,151,595	1,24,00,000	19	..	21
9	Jodhpur	34,563	1,841,642	1,21,00,000	17	..	19
10	Jaipur	15,579	2,338,802	1,20,00,000	17	..	19
11	Bhavnagar	2,860	426,401	95,70,000	13	..	15
12	Kolhapur	3,171.1	833,776	90,80,000	19	..	..
13	Bikaner	23,315.12	659,685	83,83,000	17	19	19
14	Junagadh	5,336.9	465,493	81,91,000	13	15	15
15	Cochin	1,417.75	979,019	71,68,000	17	..	..
16	Nawanagar	3,791	345,353	60,75,000	13	15	15
17	Dhopol	6,902	697,448	56,60,000	19	..	..
18	Rewa	23,000	1,401,672	55,76,000	17	..	..
19	Alwar	3,221	701,154	55,09,000	15	17	17
20	Ramgarh	892.54	453,607	54,42,000	15	15	15
21	Udaipur (Mewar)	12,691	1,380,063	51,00,000	19	21	21
22	Baliawalpur	15,000	781,191	50,36,000	17	..	..
23	Kotah	5,684	630,060	46,34,000	17	19	..
24	Kaporthal	630	284,275	37,50,000	13	15	15
25	Cutch	7,616	484,547	31,31,000	17	..	19
26	Pharatpur	1,993	496,437	29,66,000	17	..	19
27	Jind	1,259	308,183	28,00,000	13	15	15

Order No.	Name of the State.	Area in Sq. miles.	Population.	Revenue in Rupees.	Salute in Guns.		
					Permanent.	Personal.	Local.
28	Tonk . . . . .	2,553	287,898	23,92,000	17	19	..
29	Nabha . . . . .	928	263,334	23,42,000	13	..	15
30	Khairpur . . . . .	6,050	193,152	23,40,000	15	..	17
31	Benares . . . . .	875	362,735	22,09,000	13	15	15
32	Datia . . . . .	911	148,659	19,00,000	15	..	..
33	Dholpur . . . . .	1,200	230,188	18,80,000	15	17	17
34	Dhar . . . . .	1,777	230,333	16,59,000	15	..	..
35	Kalat . . . . .	73,278	328,281	16,40,000	19	21	..
36	Idar . . . . .	1,669	226,355	14,48,000	15	..	..
37	Bundi . . . . .	2,220	187,068	12,00,000	17	..	..
38	Sirohi . . . . .	1,964	186,639	10,70,000	15	..	..
39	Orchha . . . . .	2,079	284,918	10,00,000	15	17	..
40	Dewas (Senior) . . . . .	449	77,005	10,00,000	15	..	..
41	Karauli . . . . .	1,442	133,730	7,92,000	17	..	..

The particulars regarding the States have been taken from the Government of India Publication "The Indian States" and are correct up to January 1, 1917.

## APPENDIX E.

### LORD READING'S LETTER TO THE NIZAM

*Letter from the Viceroy and Governor-General of India  
to His Exalted Highness the Nizam of Hyderabad,  
dated Delhi, the 27th March, 1926*

Your Exalted Highness,

Your Exalted Highness's letter of 20th September, 1925, which has already been acknowledged, raises questions of importance, and I have therefore taken time to consider my reply

I do not propose to follow Your Exalted Highness into a discussion of the historical details of the case. As I informed you in my previous letter, your representations have been carefully examined, and there is nothing in what you now say which appears to affect the conclusions arrived at by me and my Government and by the Secretary of State. Your Exalted Highness's reply is not in all respects a correct presentation of the position as stated in my letter of 11th March last, but I am glad to observe that in your latest communication you disclaim any intention of casting imputations on my distinguished predecessor, the late Marquis Curzon.

I shall devote the remainder of this letter to the claim made by Your Exalted Highness in the second and third paragraphs of your letter and to your request for the appointment of a commission.

2. In the paragraphs which I have mentioned you state and develop the position that in respect of the internal affairs of Hyderabad, you, as Ruler of the Hyderabad State, stand on the same footing as the British Government in India in respect of the internal affairs of British India. Lest I should be thought to overstate your claims, I quote Your Exalted Highness's own words: "Save and

except matters relating to foreign powers and policies, the Nizams of Hyderabad have been independent in the internal affairs of their State just as much as the British Government in British India. With the reservation mentioned by me, the two parties have on all occasions acted with complete freedom and independence in all inter-Governmental questions that naturally arise from time to time between neighbours. Now, the Berar question is not and cannot be covered by that reservation. No foreign power or policy is concerned or involved in its examination, and thus the subject comes to be a controversy between the two Governments that stand on the same plane without any limitations of subordination of one to the other."

3. These words would seem to indicate a misconception of Your Exalted Highness's relations to the Paramount Power, which it is incumbent on me as His Imperial Majesty's representative to remove, since my silence on such a subject now might hereafter be interpreted as acquiescence in the propositions which you have enunciated.

4. The Sovereignty of the British Crown is supreme in India, and therefore no Ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independently of them and, quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements with the Indian States to preserve peace and good order throughout India. The consequences that follow are so well-known and so clearly apply no less to Your Exalted Highness than to other Rulers, that it seems hardly necessary to point them out. But if illustrations are necessary, I would remind Your Exalted Highness that the Ruler of Hyderabad along with other Rulers received in 1862 a Sanad declaratory of the British Government's desire for the



perpetuation of his House and Government, subject to continued loyalty to the Crown, that no succession in the Masnad of Hyderabad is valid unless it is recognised by His Majesty the King-Emperor, and that the British Government is the only arbiter in cases of disputed succession.

5. The right of the British Government to intervene in the internal affairs of Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. The British Government have indeed shown again and again that they have no desire to exercise this right without grave reason. But the internal, no less than the external, security which the Ruling Princes enjoy is due ultimately to the protecting power of the British Government, and where Imperial interests are concerned, or the general welfare of the people of a State is seriously and grievously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action, if necessary, must lie. The varying degrees of internal sovereignty which the Rulers enjoy are all subject to the due exercise by the Paramount Power of this responsibility. Other illustrations could be added no less inconsistent than the foregoing with the suggestion that, except in matters relating to foreign powers and policies, the Government of Your Exalted Highness and the British Government stand on a plane of equality. But I do not think I need pursue the subject further. I will merely add that the title "Faithful Ally" which Your Exalted Highness enjoys has not the effect of putting Your Government in a category separate from that of other States under the paramountcy of the British Crown.

6. In pursuance of your present conception of the relations between Hyderabad and the Paramount Power, you further urged that I have misdescribed the conclusion at which His Majesty's Government have arrived as a "decision" and that the doctrine of *res judicata* has been

misapplied to matters in controversy between Hyderabad and the Government of India.

7. I regret that I cannot accept Your Exalted Highness's view that the orders of the Secretary of State on your representation do not amount to a decision. It is the right and privilege of the Paramount Power to decide all disputes that may arise between States, or between one of the States and itself, and even though a Court of Arbitration may be appointed in certain cases, its function is merely to offer independent advice to the Government of India, with whom the decision rests. I need not remind you that this position has been accepted by the general body of the Indian Rulers as a result of their deliberations on paragraph 308 of the Montagu-Chelmsford Report. As regards the use of the term *res judicata*, I am, of course, aware that the Government of India is not, like a Civil Court, precluded from taking cognizance of a matter which has already formed the subject of a decision, but the legal principle of *Res Judicata* is based on sound practical considerations, and it is obviously undesirable that a matter which has once been decided should form the subject of repeated controversies between the same parties.

8. I now pass on to consider your request for the appointment of a Commission to enquire into the Berar case and submit a report. As Your Exalted Highness is aware the Government of India not long ago made definite provision for the appointment of a Court of Arbitration in cases where a State is dissatisfied with a ruling given by the Government of India. If, however, you will refer to the document embodying the new arrangement, you will find that there is no provision for the appointment of a Court of Arbitration in any case which has been decided by His Majesty's Government, and I cannot conceive that a case like the present one, where a long controversy has been terminated by an agreement executed after full consideration and couched in terms which are free from

ambiguity, would be a suitable one for submission to arbitration

9. In accordance with Your Exalted Highness's request, your present letter has been submitted to His Majesty's Secretary of State, and this letter of mine in reply carries with it his authority as well as that of the Government of India

Your sincerely,

(Sd.) READING.

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## APPENDIX F.

### JOINT OPINION OF PRINCES' COUNSELS

*Joint Opinion of the Right Hon. Sir Leslie F. Scott, K.C., M.P., Mr. Stuart Bevan, K.C., M.P., Mr. Wilfrid A. Greene, K.C., Mr. Valentine Holmes, and Mr. Donald Somervell.*

COUNSEL ARE REQUESTED TO ADVISE on the legal and constitutional aspects of the questions raised by the terms of reference to the Indian States Committee.

#### *Opinion.*

The terms of reference to the Indian States Committee are as follows :—

(1) to report upon the relationship between the Paramount Power and the States with particular reference to the rights and obligations arising from :—

(a) treaties, engagements and sanads ; and

(b) usage, sufferance and other causes,

(2) to enquire into the financial and economic relations between British India and the States and to make any recommendations that the Committee may consider desirable or necessary for their more satisfactory adjustment.

It will be observed that the phrase "Paramount Power" is used in part (1) : but as that phrase refers not to Crown *simpliciter* but to the Crown in possession of certain attributes, we think it will be clearer, if we discuss the relationship of the States with the Crown and express our opinion separately as to the meaning of "paramountcy" in India.

It may be convenient to state our main conclusions first and then give the reasoning on which they are based.

### *Main Conclusions*

(1) In the analysis of the relationship between the States and the Crown legal principles must be enunciated and applied.

(2) The Indian States to-day possess all original sovereign powers, except in so far as any have been transferred to the Crown

(3) Such transfer has been effected by the consent of the states concerned, and in no other way

(4) The consent of a state to transfer sovereign rights to the Crown is individual to that state, and the actual agreement made by the state must be investigated to see what rights and obligations have been created.

(5) Such agreement appears normally in a treaty or other formal engagement. An agreement to transfer sovereign powers is, however, capable in law of being made informally. In such case the onus is on the transferee, *viz.*, the Crown, to prove the agreement

(6) The relationship of the Crown as Paramount Power and the states is one involving mutual rights and obligations. It rests upon agreement express or implied with each state and is the same with regard to all the states. Paramountcy gives to the Crown definite rights and imposes upon it definite duties in respect of certain matters and certain matters only, *viz.*, those relating to foreign affairs and external and internal security (a phrase which we employ for brevity and define more fully in paragraph 6 *infra*). It does not confer upon the Crown any authority or discretion to do acts which are not necessary for the exercise of such rights, and the performance of such duties. Wherever "paramountcy" is mentioned in this opinion we mean paramountcy in the above sense and no other.

(7) The relationship is between the states on the one hand and the British Crown on the other. The rights and obligations of the British Crown are of such a nature that they cannot be assigned to or performed by persons who are not under its control.

*Legal principles are to be applied.*

1. The relationship between the Crown and the various Indian States is one of mutual rights and obligations and we have no hesitation in expressing the opinion that it must be ascertained by legal criteria. When using the word legal, we are not thinking of law in the limited sense in which it is confined to law laid down by an authority which has power to compel its observance, but are dealing with well recognised legal principles which are applied in ascertaining mutual rights and obligations where no municipal law is applicable. That the absence of judicial machinery to enforce rights and obligations does not prevent them from being ascertained by the application of legal principles is well illustrated by reference to international relations. Their legal principles are applied in arbitrations between independent states, and by the Permanent Court of International Justice, whose statute provides that the court shall apply principles of law recognised by all civilised nations.

The Indian States were originally independent, each possessed of full sovereignty, and their relationship *inter se* and to the British Power in India was one which an international lawyer would regard as governed by the rules of international law. As the states came into contact with the British, they made various treaties with the Crown. So long as they remained independent of the British Power, international law continued to apply to the relationship. And even when they came to transfer to the Crown those sovereign rights which, in the hands of the Crown, constitute paramountcy, international law

still applied to the act of transfer. But from that moment onwards the relationship between the states and the Crown as Paramount Power ceased to be one of which international law takes cognizance.

As soon as a treaty was made between the Crown and a state, the mutual rights and obligations flowing therefrom, and the general nature of the relationship so established could only be ascertained by reference to legal principles. This result has not in our opinion been in any way affected either by lapse of time, or by change of circumstances. Although the treaty, in any individual case, may have been modified, or extended by subsequent agreement express or implied, there is no ground for any suggestion that the relationship has passed from the realm of law. The effect of the treaty itself and the extent if any to which it has been modified or extended fall to be determined by legal considerations.

The view implicit in the preceding observations seems to accord with the terms of reference to the Indian States Committee in which the Secretary of State has directed enquiry. We see no ground for applying to the relationship any other than legal criteria, and we are of opinion that the relationship is legal, importing definite rights and obligations on both sides.

*“ Sovereignty rests in the states except so far as transferred to the Crown ”*

2. As each state was originally independent, so each remains independent, except to the extent to which any part of the ruler's sovereignty has been transferred to the Crown. To the extent of such transfer the sovereignty of the state becomes vested in the Crown; whilst all sovereign rights, privileges and dignities not so transferred remain vested in the ruler of the state. In the result the complete sovereignty of the state is divided between the state and the Crown. The phrase “residuary jurisdiction” is sometimes used in official language. In

our opinion it is the state and not the Crown which has all residuary jurisdiction.

That the sovereignty of the states still exists has been recognised by leading writers on the subject as well as by the pronouncements of the Crown itself.

Thus Lee Warner bases his definition of a state on its possession of internal sovereignty (Page 31). Similar views are expressed by others.

That this view is accepted by the Crown can be confirmed by reference to many official documents. As examples we may quote sanads issued after the mutiny which refer to "the Governments of the several Princes and Chiefs who now govern their own territories" or the proclamation of the 19th April, 1875, dealing with Baroda in which the Gackwar Mulhar Rao is deposed from the "sovereignty of Baroda" and the "sovereignty" of the state is conferred on his successor; or reference in the Montagu-Chelmsford report to the "independence of the states in matters of internal administration" and to "their internal autonomy."

The Crown has no sovereignty over any state by virtue of the Prerogative or any source other than cession from the ruler of the State. The idea which is held or seems to be held in some quarters that the Crown possesses sovereign rights not so transferred to it by the state is erroneous.

*Consent the sole method by which sovereign powers have been transferred from existing states to the Crown.*

3. (a) Sovereignty is, as between wholly independent states, susceptible of transfer from one holder to another by compulsory annexation or voluntary cession.

Where a conqueror after victory in war annexes the conquered state, the loss of sovereignty by the defeated state and the assumption of sovereignty by the conqueror over the territory so transferred is recognised as valid by



international law. The essence of the event is that the conqueror takes, without any act of the vanquished state. It is a mere exercise of power by the conqueror.

Annexation may also be enforced without fighting. Where a stronger state proclaims its intention to annex the territory and sovereign powers of a weaker state, and in fact does so, then, in international law, the transfer is as effective as if there had been a conquest.

Cession of sovereignty takes place, when one state cedes territory or sovereign rights to another state. In cession it is not the act of the transferee, but the consent of the transferor, which affects the transfer. But whenever the transfer is the direct result of an exercise of power, it is in the essence a case of annexation, in whatever form the transfer may be expressed—as for instance where the transfer takes the form of a cession, which a defeated state is compelled to execute. Indeed whenever the transferor state acts under the compulsion of the stronger transferee state, the transfer made by the transferor is not really the free act of that state, but a mere taking by the transferee state—an annexation in reality though not in form. A real cession, *i. e.*, a transfer which is really the act of the transferor necessarily depends upon the free consent of the transferor, and is essentially a product of voluntary agreement.

3 (b) In this section of our Opinion we have up to now been dealing with transfer of territory, or sovereign rights as between independent states, whose relations are subject to the rules of ordinary international law. But our conclusion, that in that field consent is essential to every transfer which is not in essence a forcible taking by the more powerful state, is even more true of a transfer to the Crown by an Indian State at any time after it had come into permanent contractual relationship with the Crown by agreeing to the paramountcy of the Crown in return for its protection. For, where the relationship is thus created by an agreement which, by its

express or implied terms, defines the permanent division between the Paramount Power and the Indian ruler, of the sovereignty over the state's territory, any further act of acquisition of sovereign rights by force or pressure, is excluded by the contract itself. In order to acquire any further sovereign rights the Paramount Power must ask for, and obtain the agreement of the protected state. To take them by force or pressure would be a direct breach of the contract already made.

This position is frankly acknowledged by the Crown. We quote in the appendix some of the chief historical pronouncements which have been made upon the British attitude towards the Indian States.

The possibility in law of the Paramount Power repudiating its legal relationship with its dependent state, and using force or pressure to acquire powers over it, in breach of the contractual terms, need not be considered. The pronouncements, which we have cited, put any conscious attempt of the kind wholly out of the question ; and the exercise in fact of force or pressure, whether intended or not, would be a breach of the contract. It follows that the relationship of each state to the Crown is, and has been since the time of the first treaty between the two, purely contractual.

In this context it is to be noted, that, from those states which have never ceased to exist as states, the Crown has never claimed any rights as flowing from conquest or annexation. Where the Crown has intended to annex its action has been unequivocal.

Many Indian States have in the past been conquered and annexed. They were then merged in British India and ceased to exist. Some were annexed by the exercise of superior power without the use of force.

In a few cases states have been annexed and wholly merged in British India and then recreated by the prerogative act of the Crown. In such cases the Crown is free to grant what powers of sovereignty it chooses, and

the sovereignty of the ruler to whom *rendition* is made, is limited and defined by the conditions of the grant.

But when once a state has been in fact recreated, and a contractual relationship established between it and the Crown, it becomes thenceforth subject to the same considerations as other states in contractual relationship with the Crown, and mutual rights and obligations are determined by the contract and by that alone

*Other suggested methods of transfer*

3. (c) At this point it is convenient to consider the methods alternative to that of consent, which have been suggested by leading jurists and others, for effecting a transfer from a state to the Crown of sovereign rights.

Sir William Lee Warner suggests five channels as contributing to the rights or duties of the Indian Princes: (i) the Royal Prerogative, (ii) Acts or Resolutions of Parliament, (iii) the law of nature, (iv) direct agreement between the parties, and (v) usage. With regard to the first two suggested channels or—to use a word which seems to us to be more appropriate—sources of rights and duties, we are quite unable to find any legal principle on which it is possible to base a contention that either (i) the Royal Prerogative or (ii) Acts or Resolutions of the British Parliament can give to the Crown any rights against the states or impose any obligations upon them

(i) In the case of the Royal Prerogative, Sir William Lee Warner does not himself explain how it can be effective to bind the Indian States, and we are forced to the conclusion that he was driven to suggest the Royal Prerogative, as a *source of rights and duties* which he believed to exist, because he could think of no other.

(ii) With regard to Acts of Parliament, Sir William Lee Warner does not appear to assert that they have the direct effect of creating obligations in the Indian Princes. In so far as he suggests that the statutes of the British

Parliament, which control British subjects, may have an indirect reaction, in fact, on Indian States, with whom British subjects have dealings, or that Acts of Parliament may influence Indian rulers in a particular direction, we agree with him ; but this is a very different thing from his proposition that Acts of Parliament are one of "the five channels," from which flow the duties and obligations of the Indian States.

(iii) His third suggested source namely, the law of nature, he puts forward as the source of an obligation to refrain from inhuman practices, such as suttee, infanticide or slavery. Whether there be an obligation of the kind, we express no opinion ; but if there be, it is a duty due to the civilised world, and we can see no ground for treating it as any special obligation owed to the Crown as such. Indeed the history of the dealings of the Crown with the states, with regard to practices of this kind, apparently shows a recognition by the Crown, that their suppression can only be secured by negotiation and agreement, and not by virtue of any right of interference.

(iv) With regard to the fourth source of obligation suggested by Sir William Lee Warner, namely, direct agreement between the parties, we agree with him as above stated.

(v) Sir William does not define what he means by usage, his fifth source ; if he meant an acquiescence in a practice in such circumstances that an agreement to that practice is to be inferred, we should agree with him because his fifth source would merely be a particular form of agreement. But Sir William seems to regard usage as a source of obligation even though agreement be absent, and with this view we disagree. We discuss the topic later in our Opinion.

It is to be observed that Sir William Lee Warner is definitely of the view that the Indian States are sovereign states ; and it is only in regard to the view which he takes as to the extent to which and the way

in which their sovereignty has been limited, that we part company with him

Hall deals with the question of the limitation on the sovereignty of the states in a footnote (Hall's International Law, 8th Ed., p. 28) He suggests an explanation different from any put forward by Sir William Lee Warner, for the limitation which he believes to exist over and above the limitation imposed by treaty He says that, in matters not provided for by treaty, a "residuary jurisdiction is considered to exist, and the treaties themselves are subject to the reservation that they may be disregarded, when the supreme interests of the Empire are involved, or even when the interests of the subjects of the Native Princes are gravely affected The treaties really amount to little more than statements of limitation which the Imperial Government, except in very exceptional circumstances, places on its own action " In dealing with this suggestion of a residuary jurisdiction, we experience the same difficulty, that we felt in dealing with Sir William Lee Warner's suggestion of the Royal Prerogative and Acts of Parliament as sources of obligation on the states towards the Crown, namely, that we can conceive no legal justification for inferring the existence of such a residuary jurisdiction. Moreover, Hall does not indicate what reasoning led him to draw the inference. But we are clearly of opinion that Hall's view, as expressed in his footnote, is wrong. The statement that the treaties are merely unilateral acts of the Crown, setting a self-imposed limit on its inherent powers over the states, cannot in our opinion be supported. The assumption that there are any such inherent powers is devoid of any legal foundation—indeed his assertions in the footnote go beyond anything which the Crown has ever claimed, and are quite inconsistent with the various formal pronouncements of the Crown, cited in the appendix to this opinion Those pronouncements leave no room for doubt that the Crown regards its treaties and agreements with the Indian States

as binding upon it in as full a manner as any of its treaties with other sovereign states.

3. (d) Before we pass from this subject there is one other matter with which we ought to deal. Three of the writers of this Opinion have in an earlier Opinion expressed the view that paramountcy is a factor limiting the sovereignty of the States. At first sight this view may seem to be incompatible with the opinion, which we have expressed above, that agreement is the sole source of limitation upon the sovereignty of the states, and that obligations of the states towards the Crown are created by agreement and by nothing else. But in truth there is no such incompatibility. The Crown is aptly described as the Paramount Power, because the states have *agreed* to cede to it certain important attributes of their sovereignty, and paramountcy is a useful word to describe the rights and obligations of the Crown, which arise out of the agreed cession of those attributes of sovereignty. So understood, paramountcy can properly be said to be a "factor limiting the sovereignty of the states." But inasmuch as this is only to say that the agreement of the states to cede attributes of sovereignty is a factor limiting their sovereignty, we think that to introduce the word paramountcy (as we did in our earlier Opinion) in this connection was confusing and apt to mislead. It is to be observed that Sir William Lee Warner avoids the use of it and does not include paramountcy in the list of "channels" through which in his view rights and obligations are created. He uses paramountcy only to describe the relationship itself, and this use is correct.

In our considered view there is a real danger in a loose use of the word. In its correct sense paramountcy is not a factor in creating any rights or obligations, but is merely a name for a certain set of rights when vested by consent in another sovereign state. Incorrectly understood it may be treated as creating rights and obligations; and as the word paramountcy itself is not a word of art

with a defined meaning, the rights and obligations attributed to it would be undefined. If paramountcy were a source of rights, there would be no limit, save the discretion of the Paramount Power, to the interference with the sovereignty of the protected states by the Paramount Power. Indication of this misunderstanding of paramountcy are, we are informed, present in the official correspondence with individual states, and this fact gives the point importance. We regard the idea that paramountcy, as such, creates any powers at all, as wholly wrong, and the resort to paramountcy, as an unlimited reservoir of discretionary authority over the Indian States, is based upon a radical misconception of what paramountcy means.

The existence of a general discretionary authority is, moreover, wholly inconsistent with the pronouncements of the Crown to which we have already referred.

3. (e) We have given at some length our reasons for our opinion that the sovereignty of the states is limited by agreement, and by nothing else, because we think that this is the most important of the questions which we have to consider

*States to be considered separately.*

4. The consent to the transfer to the Crown of any sovereign powers is the consent of each individual state given by its sovereign. Each state and each occasion of transfer must be considered separately, in order to find out what the agreement was by which the consent of the state was given to any particular session.

This legal conclusion not only is of general importance for the purpose of correcting a too common misconception, that the problem of the states can be disposed of by general propositions applicable to all alike, but introduces a practical difficulty in the writing of this Opinion. There are many individual differences in regard to the terms of the consensual relationships of the several

states to the Crown ; and the relationship may be constituted by one or by several agreements. In this Opinion we must content ourselves with a statement only of reasons and conclusions of general application.

We have noted a common view which seems to us fallacious. It is that the possession by the Crown of certain rights of sovereignty over State A, of itself justifies a legal conclusion that the Crown has a similar right over a neighbouring State B. If we are right in the view which we hold (and we hold it confidently) that the relation between the Crown and A and between the Crown and B is in each case regulated by a separate contract or set of contracts, it follows necessarily that the view so expressed is a fallacy. But this crude form of the fallacy is less common than the view that because the Crown enjoys a certain right in regard to many states a legal conclusion necessarily follows that it possesses the right generally in regard to all states. This argument is equally fallacious, because in our view the relationship is one of contract.

It should, however, be borne in mind that if the Crown has a certain right clearly established and publicly recognised, in regard to a group of states, their example may not improbably influence a neighbouring state to follow suit, and enter into its own individual contract with the Crown, seeking the same kind of rights. And the more general and notorious the Crown's possession of the right in question is, the less improbable it will be, that our hypothetical state should consent to be on the same footing without insisting on the execution of a formal instrument. Where this happens the Crown, in the result, possesses a right in regard to that state, similar to that which it already possesses in regard to the others ; but the reason is that that state has, by conduct made its own tacit agreement with the Crown conferring the same powers ; it is not because any such sovereign rights, extending all over India, are inherent in the Crown.

In this connection a further reference is necessary



to the question of paramountcy, which gives point to the views which we have expressed above. The Crown is in relation to all the states the Paramount Power. Its position as such is universally recognised and cannot be disputed. From this relationship, which as we have already pointed out, is itself based on agreement express or implied, certain mutual rights and duties arise. What those rights and duties are we discuss later in this Opinion (paragraph 6 *infra*). It is sufficient to state here that they relate to foreign affairs, and the external and internal security of the states. Paramountcy bears the same meaning in relation to all the states, although the precise manner in which it is put into operation in any given circumstances may differ. In this sense, and in this sense only, can it be said that the position of all the states *vis-à-vis* the Crown is the same. But it is the same not because the Crown has any inherent residuary rights, but because all the states have by agreement ceded paramount rights to the Crown.

*Agreement transferring sovereign rights normally expressed in treaty, though capable of being made informally: but onus of proof then on transferee, i e , the Crown.*

5. (a) When one state makes an agreement with another state affecting its sovereignty, and thereby does an act of great public importance, it is usual to put the agreement into solemn form, in order to have an unimpeachable record, and to ensure that the signatories are properly accredited to bind their respective states.

5. (b) It is no doubt true that both in international law, as between independent states, and in the law applicable to the relations of the Crown and Indian States, it is possible that an agreement effecting a cession of sovereign rights should be made informally by a mere written agreement or correspondence; and even that it should be made by word of mouth at an interview. But

if so important a transaction as a cession of sovereign rights is alleged to have been carried out informally, the language used, and the surrounding circumstances must be scrutinised with care, to see, firstly, whether, the transaction is really an agreement to transfer sovereign rights or something less important ; and secondly, whether the authority of the signatory to bind his state is beyond doubt. That such a transaction should be carried out by a mere oral interview is so unlikely as in itself to raise doubts as to the value of the evidence.

### *Sanads.*

5. (c) Its terms of reference request the Indian States Committee to report upon, *inter alia*, the effect of sanads upon the relationship of the states to the Paramount Power. The word "sanad" (in older documents often spelt "Sunnad" as it is pronounced) is, as we are informed in common use in India, not only for diplomatic instruments of grant, but in ordinary commercial documents, and receipts for money, and means merely "evidence" or "record."

But whatever be the correct signification of the word, we realise that in political parlance it is used generally as indicating a grant, or recognition from the Crown to the ruler of a state.

But a sanad by way of grant can have no operative effect as a grant, if the grantee already has the powers which the sanad purports to grant. It could only have that effect, if the grantee state had, at some previous date in its history, ceded to the Crown those very powers which, or some of which, the sanad purports to grant ; or if it were a case of a recreation out of British India of a lapsed state, or a cession to an existing ruler, of territory which at the date of the sanad was a part of British India.

Similar considerations apply to a sanad by way of recognition. If the state does not possess the right, the recognition would be construed as a grant, but if it does

possess the right, then the sanad is a mere acknowledgment or admission by the Crown

It follows also from the reasoning of this Opinion that the machinery of a sanad cannot be used so as to curtail the powers of a ruler. *Ex hypothesi* each particular state possesses, at any given moment, a measure of sovereignty which is definite. It will in every case be less than complete sovereignty, because the state must have given up those rights which constitute paramountcy, and it may also, by particular agreements with the Crown, have given up other sovereign rights—either many or few. But after deducting all these cessions from the total of complete sovereignty, it is plain that the state still possesses "x" rights. Whatever "x" may be, no part of "x" can be taken away from it against its will—and the Crown cannot do indirectly by a sanad which purports to define the rights of the state, what it cannot do directly. If the sanad defines the state's rights as wider than "x" then to the extent of such excess it may be construed as a grant by the Crown. But if the definition is narrower than "x" then to the extent of the restriction sanad will be inoperative. The effect of the ordinary sanad may perhaps be expressed shortly by saying that, leaving aside the exceptional cases where the Crown is making a new cession of sovereign rights, it is nothing more than an act of comity, expressing a formal recognition by the Crown of powers of sovereignty which a State in fact possesses.

We need only add that where a sanad is issued by the Crown in circumstances showing that it represents an agreement with the state concerned, then it is in fact the record of the agreement, and will have the operative effect of an agreement.

#### *Usage, sufferance and other causes*

5. (d) (i) *Usage*—The subject of "usage" looms large in discussions of the rights of the Crown over the

states, because it is supposed by many to be in itself a source of sovereign rights. This idea is erroneous.

“Usage” is an ambiguous word. It has one sense or one set of attributes in international law, and another in municipal law. In the former, “usage” means the practice commonly followed by independent nations; and has the binding character of a rule of law, because it represents the consensus of opinion amongst free and independent nations.

But the characteristic relationship between nations, which in international law gives to usage its legal efficacy, is absent from India. The Indian States are not in the international sense independent, but protected by the British Crown; they are not free *inter se* to follow what practices of interestatal relations may seem good to them, and thereby to form and exhibit a consensus of opinion on any particular usage; for they have, by the very terms of their basic agreement with the Crown given up the rights of diplomatic negotiation with and of war against or pressure upon other Indian States, and have entrusted to the Crown the regulation of their external relations, in return for the Crown’s guarantee that it will maintain in their integrity their constitutional rights, privileges and dignities, their territory and their throne. No consensus of opinion as amongst free and independent nations can therefore even begin to take shape, and without it the source of obligation in the international relationship cannot arise.

In municipal law usage is of itself sterile; it creates neither rights nor obligations. It is true that a course of dealing between two parties may be evidence of an agreement to vary some existing contract, *sc.* if it represents a tacit but real agreement between them, that notwithstanding the express terms of that contract they will be bound by the practice which they have been used to follow. In such a case the usage becomes embodied in a fresh though tacit and unwritten agreement, but it

is not the usage itself, it is the agreement underlying it, which gives rise to new rights.

And we should add that the inference that a new agreement has thus been made cannot be lightly drawn. There is a vital distinction between acquiescence by A in acts which involve a departure by B from the existing contract between them, and an agreement by both to a variation of the contract, so that B shall in future have the right to do those acts, whether A acquiesces or not. We use the word "variation" designedly, because the sovereignty of the states remains in them, save in so far as it has been ceded by treaty or other agreement, and any further diminution of the sovereign rights of the state must constitute a variation of the existing contract so contained in the treaty or other agreement.

We recognise that there are in other fields of human affairs occasions when usage as such may acquire the binding force of law, but they are, in our opinion, irrelevant to the matters under consideration. For instance, we disregard the case of usage as a historical origin of rules of the common law of a country, because the history of British relations with the states leaves no room for the birth and growth of a common law. For analogous reasons we see no relevance in usages such as have led to the growth of the cabinet system in the unwritten constitution of Great Britain, or have set parliamentary limitations upon the Royal Prerogative.

In fine we see no ground upon which there can be imputed to usage between an Indian State and the Crown any different efficacy from that which may be attributed to it by municipal law between individuals. It follows therefore that *mere* usage cannot vary the treaties or agreements between the states and the Crown, because of itself it does not create any new right or impose any new obligation. Acquiescence in a particular act or a particular series of acts *prima facie* does nothing more than authorise the doing of those particular acts on the

particular occasions when acquiescence was so given. It is legally possible that behind the usage there should in fact be an agreement dealing with rights, but it is important to realise the limitations within which it is permissible to infer such an agreement, *viz.*, that no agreement can underlie usage, unless both the contracting parties *intend* to make one.

And where an agreement is not made plain by incorporation in a written instrument which can be read and understood, it is important to avoid confusion of thought as to the subject matter. A licence to the Government of India to do a particular act on one or more occasions, which without leave would be an encroachment upon the state's sovereignty, is not an agreement to cede sovereign powers. And no inference of an agreement to cede sovereignty can be drawn from one or from many such licences. The very fact that a licence is sought shows a recognition by the Crown that it does not possess the sovereign power to do the act without the consent of the ruler concerned. And it is obvious that a licensee of the kind is much more likely to be given informally than a cession of sovereignty. It follows therefore that, unless the circumstances viewed as a whole compel the inference that the parties were intending to make an agreement changing their sovereign relationship, the usage cannot alter their rights. And on this question of fact, it should be borne in mind that the Crown and the states have acted in a way which shows that this view has really been taken by both. In the case of many states there exists a whole series of treaties and engagements, regulating many aspects of their relationship by express provision. Where express contractual regulation thus extends in many directions over the field of political contract, there remains little room for implying tacit agreement.

Similarly where it is sought upon evidence of conduct to found an allegation of "usage" and from that usage to imply an agreement, if the facts disclose

protests by the state or any other evidence negating an intention to make such an agreement, the very basis of the claim is destroyed. It is perhaps pertinent to observe that where a political practice is said to amount to a usage followed as between the Crown and a state or states, and that practice began with some act of the Government of India during a minority or other interregnum when the state was under British administration, there is an additional obstacle to the inference from the usage of any intention by the state to make any agreement affecting its sovereignty.

It follows from the whole reasoning of this Opinion that the only kind of "usage" in connection with the Indian States which can even indirectly be a source of sovereign powers, is not a usage common to many states as in the case in international law, but a course of dealing between a particular state and the Crown of a kind which justifies an inference of an agreement by that state to the Crown having some new sovereign power over the state. We may also add that a "political practice" as such has no binding force, still less have individual precedents or rulings of the Government of India.

When we speak of the possibility of inferring an agreement from usage, we desire to point out that such an agreement can only be inferred as against the particular state which was party to the usage, and cannot extend to bind any other state. This caution should be observed even where some other state has been following the identical usage. In the case of State A evidence of facts beyond the usage itself may conceivably justify the inference of agreement; in the case of State B, such additional evidence may be absent.

(ii) *Sufferance*.—The word "sufferance" means "acquiescence"; and may either amount to a consent to particular acts, or particular things, or be of such a character and given in such circumstances as to justify the inference of an agreement. From the legal point of

view its efficacy is no greater, and no less, than that of usage, and it is in principle covered by what we have said about usage. If there be any difference, it is rather that the word seems to exclude the idea of two-sided agreement.

5. (e) The ordinary rule that the burden of proof is upon the person who is propounding the existence of an agreement applies, in our view, in the case of the states and the Crown, with as much force as it applies to the case of individuals whose relations are governed by municipal law.

#### *Paramountcy.*

6. (a) We have already [paragraph 3 (d), *supra*] discussed certain aspects of paramountcy and have expressed the opinion that the relationship is founded upon agreement, express or implied, existing in the case of all the states, and that the mutual rights and duties, to which it gives rise, are the same in the case of all the states. In order to ascertain what these mutual rights and duties are it is necessary to consider what are the matters in respect of which there has been a cession of sovereignty on the part of all the states.

6. (b) The gist of the agreement constituting paramountcy is, we think, that the state transfers to the Crown the whole conduct of its foreign relations—every other state being foreign for this purpose—and the whole responsibility of defence ; the consideration for this cession of sovereignty is an undertaking by the Crown to protect the state and its ruler against all enemies and dangers external and internal, and to support the ruler and his lawful successors on the throne. These matters may be conveniently summarised as, and are in this Opinion called, “foreign relations and external and internal security.” We can find no justification for saying that the rights of the Crown in its capacity as Paramount Power extend beyond these matters. The true test of the legality of any claim by the Crown, based on paramountcy, to



interfere in the internal sovereignty of a state must, we think, be found in the answer to the following question : "Is the act which the Crown claims to do necessary for the purpose of exercising the rights or fulfilling the obligations of the Crown in connection with foreign relations and external and internal security?" If the claim be tested in this way, its legality or otherwise should be readily ascertainable. These matters do not fall within the competence of any legal tribunal at present existing, but if they did, such a tribunal when in possession of all the facts would find no insuperable difficulty in deciding the question.

We do not propose in this Opinion to discuss particular cases in which a claim by the Paramount Power to interfere with the internal sovereignty of a ruler would be justified on the principle which we have enunciated. There are certain cases, as for example such misgovernment by the ruler as would imperil the security of his state, in which the Paramount Power would be clearly entitled to interfere. Such an interference would be necessary for the purpose of exercising the Crown's rights and fulfilling its obligations towards the state. But in this Opinion we are dealing rather with principles than their application; and an enumeration of cases in which interference would appear to be justifiable would be out of place. It would be equally out of place for us to try to particularize as to what acts of interference would be proper in cases where some amount of interference was admittedly justifiable beyond saying that the extent, manner and duration of the interference must be determined by the purpose defined in our question above.

6. (c) We have already stated, and we repeat, that the position of Great Britain as Paramount Power does not endow it with any general discretionary right to interfere with the internal sovereignty of the states. That in certain matters the element of discretion necessarily enters, is no doubt true. Thus in the case of a national emergency the Crown must temporarily be left with some measure of

discretion for the common protection of all. But this is due to the fact that the right and duty of the Crown under the paramountcy agreement to defend the states necessarily involve such a discretionary element. It is a very different thing to say that, in case of a difference arising between the Crown and a state, the Crown by virtue of its paramountcy has a general discretion to overrule the objections of the state. Whether or not it is entitled to do so must depend not upon the discretion of the Crown, but upon the answer to the question of fact set out in the last sub-paragraph.

6. (d) So far as we can judge, there is no evidence of the states generally agreeing to vest in the Crown any indefinite powers or to confer upon it any unlimited discretion. The existence in certain parts of the field of paramountcy of such a discretionary element as is referred to above, is no ground for presuming an intention to confer a similar discretionary authority in any other fields, such as, for example, commercial or economic matters. Indeed, the history of most states, discloses numerous occasions on which the Government of India, in order to get some action adopted within or affecting a state, has sought and obtained the consent of the state to a particular agreement for the purpose, thus showing a recognition by the Crown that its powers are limited and that it cannot dispense with the consent of the state.

6. (e) Our opinion that the rights and duties arising from paramountcy are uniform throughout India carries with it the resultant view that the Crown, by the *mere fact of its paramountcy*, cannot have greater powers in relation to one state than it has in relation to another. The circumstance that a state has, by express or implied agreement conferred upon the Crown other specific powers, does not mean that the paramountcy of the Crown has in relation to that state received an extension. Much less can it mean that it has by such an agreement received such an extension in relation to other states which were not parties to the agreement. The rights so conferred on

the Crown arise from the agreement conferring them, and not from the position of the Crown as Paramount Power.

6. (f) The Crown has, by the mere cession to it of paramountcy, acquired no right to control the independent action of any state in matters lying outside the special field so ceded. Outside the subjects of foreign relations and the external and internal security of the state, each state remains free to guide its actions by considerations of self-interest, and to make what bargain with the Government of India it may choose. There is no legal or constitutional power in the Government of India, or its officers, nor in the Viceroy or the Political Department, to insist on any agreement being entered into by a state. Nor is there any legal basis for a claim that any state is under a duty to co-operate in matters outside the field of paramountcy with British India. The phrase "subordinate co-operation" which appears in some treaties (*e.g.*, the Udaipur Treaty of 1818) is concerned, in our opinion, solely with military matters.

It follows from this ascertainment of the legal position, that in a large field of subjects, such as fiscal questions, and the commercial and industrial development of India as a whole, it is within the rights of each state, so far as paramountcy is concerned, and apart from special agreement, to remain inactive, and to abstain from co-operation with British India. In many directions the legal gap may have been bridged by particular agreements between individual states and British India; but such agreements may fall short of what is, or may hereafter become, desirable in the common interest of the development of India as a whole, or may need revision. It is therefore important to draw attention to the fundamental legal position, that if, on political grounds the co-operation of the states is desired, their consent must be obtained. The converse proposition is equally true. Outside the matters covered by paramountcy, and in the absence of special agreement, no state is entitled to demand the assistance of the Crown to enforce the co-operation of British India in the

performance of those acts which the states may consider desirable from their point of view.

6.—(g) The rights of any given state being defined by its agreement with the Crown, it follows that the Crown has no power to curtail those rights by any unilateral act.

For the same reason it is impossible for Parliament in Great Britain, by means of legislation, to curtail any rights of the states. The Crown cannot break a treaty with the concurrence of the Lords and Commons any more than without their concurrence.

Similarly, the Legislature of British India is equally unable to impose upon the ruler of a state any obligation which under its agreements with the state the Crown is not authorised to impose.

6. (h) It is a necessary consequence of the conclusions expressed above that the relationship of paramountcy involves not merely a cession of sovereignty by each state, but also the undertaking of definite obligations by the Paramount Power towards each state. This aspect of the matter will not be disputed.

The duties which lie upon the Crown to ensure the external and internal security of the states and to keep available whatever armed force may be necessary for those purposes, are plain.

Similarly, the fact that the states by recognising the paramountcy of the Crown, have abandoned the right to settle by force of arms dispute which may arise between them, clearly imposes upon the Crown the duty either to act itself as an impartial arbiter in such disputes, or to provide some reasonably just and efficient machinery of an impartial kind for their adjustment, and for ensuring compliance with any decision so arrived at.

We should add that such an implied obligation on the Crown must carry with it the corresponding implication of such obligations on each state as may be necessary to make the machinery effective.

6. (i) The question also arises whether there is any obligation upon the Crown analogous to that described by us in the last sub-paragraph in a case where the dispute is between a state and the Government of India. We recognise that this question is one of great practical importance to the states. We are instructed that a complaint made by a state against the Government is decided by the Government, on a mere written representation, without any of the opportunities afforded by ordinary legal procedure for testing the opposite side's arguments and evidence; and that the material on which the decision is based is kept secret, and finally, that on many occasions of dispute, in the view of the Princes and Chiefs, the Government of India is both party and judge in its own case.

We have considered this matter, but we are of opinion that, disregarding all political considerations, there is no legal obligation upon the Crown to provide machinery for independent adjudication. Each State, when ceding paramountcy, obtained from the Crown by agreement certain undertakings, express or implied, but in our view this was not one, and cannot be implied. The states merely relied upon the Crown to carry out its undertakings.

6. (j) Whenever for any reason the Crown is in charge of the administration of a state or in control of any interests or property of a state, its position is we think in a true sense a fiduciary one. That a trustee must not make a profit out of his trust, that a guardian in his dealings with his ward must act disinterestedly, are legal commonplaces, and afford a reliable analogy to the relationship between the Paramount Power and the states. Upon this view the Crown would not be justified in claiming the right as Paramount Power, for example, to override the rights of a state in the interest of British India. Such a claim would, in our view, be indefensible on the ground last mentioned, and also because it would

involve the extension of the conception of paramountcy beyond the limits which we have denied above.

*The nature of the relationship.*

7. The terms of reference to the Indian States Committee raise another question to the legal aspect of which we have given careful consideration, namely, the nature of the relationship between the Paramount Power and the states having regard particularly to the parties between whom the mutual rights and obligations subsist and the character of those rights and obligations. Our views may be summarised as follows :—

(i) The mutual rights and obligations created by treaty and agreement are between the states and the British Crown. The Paramount Power is the British Crown and no one else ; and it is to it that the states have entrusted their foreign relations and external and internal security. It was no accidental or loose use of language, when on the threshold of dealing with the subject of the Indian States, the Montagu-Chelmsford report described the relationship as a relationship to the British Crown ; for the treaty relations of states are with the King in his British or, it may be, in his Imperial capacity, and not with the King in the right of any one of his Dominions. The contract is with the Crown as the head of the executive government of the United Kingdom, under the constitutional control of the British Parliament.

(ii) The states cannot dictate to the Crown the particular methods by which, or servants through whom, the Crown should carry out its obligations. The Secretary of State, the Viceroy and the present Government of British India are the servants chosen by the Crown to perform the Crown's obligation to the states. So long as those obligations are being fulfilled and the rights of the states respected, the states have no valid complaint. This liberty is necessarily subject to the condition that the agency and machinery used by the Crown for carrying out its

obligations must not be of such a character, as to make it politically impracticable for the Crown to carry out its obligations in a satisfactory manner.

(iii) The obligations and duties which the parties to the treaties have undertaken require mutual faith and trust ; they demand from the Indian Princes a personal loyalty to the British Crown, and from the British Crown a continuous solicitude for the interests of each state , and they entail a close and constant intercourse between the parties

In municipal law contracts made in reliance on the personal capacity and characteristics of one party are not assignable by him to any other person. We regard the position of the Crown in its contracts with the states as comparable. Not only is the British Crown responsible for the defence and security of the states and the conduct of their foreign relations, but it has undertaken to discharge these duties itself for the states. The British Crown has this in common with a corporation that by its nature it must act through individuals ; but where it has undertaken obligations and duties which have been thus entrusted to it by the other contracting party in reliance on its special characteristics and reputation, it must carry out those obligations and duties by persons under its own control, and cannot delegate performance to independent persons, nor assign to others the burden of its obligations or the benefit of its rights. So the British Crown cannot require the Indian States to transfer the loyalty which they have undertaken to show to the British Crown, to any third party, nor can it, without their consent, hand over to persons who are in law or fact independent of the control of the British Crown, the conduct of the states' foreign relations, nor the maintenance of their external or internal security.

LESLIE SCOTT.  
STUART BEVAN.  
WILFRID GREENE.  
VALENTINE HOLMES.  
D. R. SOMERVILL

24th July, 1928.

## APPENDIX.

*Extract from Queen Victoria's Proclamation, 1858.*

"We hereby announce to the Native Princes of India that all Treaties and Engagements made with them by or under the authority of the Honourable East India Company are by Us accepted and will be scrupulously observed ; and We look for the like observance on their part. We desire no extension of Our present Territorial Possessions ; and while We will admit no aggression upon Our Dominions or Our rights to be attempted with impunity, We shall sanction no encroachment on those of others. We shall respect the rights, dignity, and honour of Native Princes as Our own ; and We desire that they, as well as Our own subjects, should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government."

*Extract from king Edward VII's Coronation Message.*

"To all My feudatories and subjects throughout India, I renew the assurance of My regard for their liberties, of respect for their dignities and rights, of interest in their advancement, and of devotion to their welfare, which are the supreme aim and object of My rule, and which, under the blessing of Almighty God, will lead the increasing prosperity of My Indian Empire, and the greater happiness of its people."

*Extract from King George V's Speech at the Delhi Coronation Durbar, 1911.*

"Finally, I rejoice to have this opportunity of renewing in my own person those assurances which have been given to you by My revered predecessors of the maintenance of your rights and privileges and of My earnest concern for your welfare, peace, and contentment.

"May the Divine favour of Providence watch over My



people and assist Me in My utmost endeavour to promote their happiness and prosperity

"To all present, feudatories and subjects, I tender Our loving greeting."

*Extract from King George V's Proclamation, 1919*

"I take the occasion again to assure the Princes of India of my determination ever to maintain unimpaired their privileges, rights and dignities "

*Extract from King George V's Proclamation, 1921.*

"In My former Proclamation I repeated the assurance given on many occasions by My Royal predecessors and Myself, of My determination ever to maintain unimpaired the privileges, rights and dignities of the Princes of India. The Princes may rest assured that this pledge remains inviolate and inviolable "

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## APPENDIX G.

### PRINCES PROPOSALS OF APRIL, 1928.

“(1) .....

(2) The scheme has been framed with a view to satisfying the following requirements :—

(a) Effectively protecting the States in the enjoyment of the rights, political and economic, to which they are really entitled, thus facilitating their efforts to develop their resources and to advance their cause of good and beneficent government.

(b) Providing for joint consultation with British India in matters of common concern, with a view to common action, under conditions of reciprocity, with British India, in the interests of India as a whole and of the Empire.

(c) Providing for the exercise, under effective safeguards such as are specified in 5 (i) and (ii) below of certain ultimate powers of intervention in the event of gross misgovernment, of flagrant injustice.

3. The scheme contemplates the creation of three new bodies, the Viceroy in Indian States Council, the Union Council (that is, the Indian States Council, and the Governor-General's Council sitting together to settle matter of common concern) and the Union Supreme Court. It also contemplates the enlargement of the powers of the present Chamber of Princes and an improvement of the organisation and the functions of the political department.

#### \* THE INDIAN STATES COUNCIL.

4. The Indian States Council will consist of the Viceroy as president, three representatives of the States (either Princes or ministers), two English members with

no previous connection with India, and the head of the Political Department. It represents a natural development of the Princes' original idea of an advisory council.

5 The functions of the Indian States Council are set out in sub-clause (a) to (g) below, and the necessary safeguards, from the standpoint of the States, are enumerated under the appropriate sub-clause.

(a) Safeguarding the interests of States, and generally transacting, subject to the internal autonomy of the states, the business which arises concerning the States' side of India.

(b) Representing the States' side of India on the Union Council which will be competent to take decisions, subject to the safeguards indicated below, in matters of common concern to the States and British India.

#### *Safeguards.*

(1) The Viceroy and each member of the Indian States Council should subscribe to a solemn obligation to protect the interests of the States together with the constitutional rights, powers and dignities of the Princes and the Chiefs. The Viceroy may in future take a separate oath of office laying this duty upon him, and in the Patent of Appointment of each member of the Indian States Council, this obligation should find a place.

(2) The authority of the Indian States Council to commit the States to arrangements arrived at in the course of the negotiations with the Governor-General in Council upon matters of common concern will not be unrestricted. The Standing Committee of the Chamber and the Indian States' Council will together work out general principles of policy which will be accepted by the Indian States Council as a guide to the desire of the States in matters of common concern. Matters not covered by the general principles of policy so settled will require to be referred to the Chamber, whose ratification of any proposed arrangement will be necessary before the

authority of the Indian States' Council on behalf of the States becomes effective. The Indian States' Council and the Standing Committee should moreover remain in close touch, and joint meetings might be utilised for the purpose of dealing with questions of emergency arising between the sessions of the Chamber.

(3) Each individual state should have an opportunity where its interests are particularly affected, to urge before the Indian States' Council its desires on special grounds either,

(a) to modify in its own case a general arrangement settled in Indian States' Council or in Union Council.

or (b) to stand out of this arrangement altogether. The Indian States' Council will come to a decision upon the merits of each case.

(4) Each individual state will have the right to obtain from the Union Supreme Court a ruling that any particular exercise of powers by the Indian States' Council, by the Union Council or by any representative of the Paramount Power is unconstitutional and accordingly invalid.

(5) In order to provide the Indian States' Council with a moral authority corresponding to that which the legislature may supply to the Governor-General in Council the functions of the Chamber of Princes will be enlarged and its importance increased. (See para 8 below).

(c) Advising the Viceroy as to the intervention by him in the event of gross misgovernment, of flagrant injustice in any state, in which case the constitutional responsibility for intervention will continue to rest upon him personally and exclusively subject to the condition that he shall first have consulted with and been advised by the Indian States' Council.

### *Safeguards.*

In addition to the express condition embodied in Para (c) :

1. Providing that before intervention takes place. The facts of the case, unless admitted, must be established by a process of investigation to which the Prince of the State concerned shall be a party enjoying the normal presumption of innocence until the contrary is proved, and entitled to know and to meet all the evidence against him or it

2. Providing that before tendering such advice the Indian States' Council shall afford to the Prince or State concerned an opportunity of presenting before the Indian States' Council his or its views or proposals

(d) Directing and controlling the Political Department (See para 9 below)

(e) Receiving references from the Chamber of Princes [see para 6 (iii)] below or from any individual State upon matters requiring consideration or action

(f) Referring any matters to the Chamber of Princes for consideration and advice, without limiting the above general power, a particular illustration as afforded by subjects personal to the Rulers, such as ceremonial dignities, and privileges.

(g) Referring to the Union Supreme Court such questions of fact or Law, or both as any State or the Chamber of Princes may require to be so referred, or such other matters as the Indian States' Council may consider fit subjects for such reference.

### THE UNION COUNCIL

6 As above stated, the Union Council will be composed of the Viceroy in Indian States' Council and the Governor-General in Council in joint session, presided over by the Viceroy. The functions of the Union Council will be the consideration of and action upon subjects of common concern both to British India and States' India which will include

(a) *The Crown's obligation in regard to Defence and foreign affairs.*

(b) The promotion of the interests of India as a whole, including necessary adjustment of the interests between British India and Indian States, where the interests of the two sides are not identical.

### *Safeguards.*

(i) No power will be given to the Governor-General's Council to outvote the Indian States' Council.

(ii) If a proposal from British India goes beyond the mandate of the Indian States' Council [see 5 b (ii) above], it can not be enforced against any State without the State's specific consent.

(iii) If a proposal discussed in the Union Council does not commend itself to the Indian States' Council because of its anticipated consequences to the interests of the States, it will fail to receive the assent of the Union Council. Provision to meet such a case of deadlock requires careful consideration. A possible remedy might be found in giving the Viceroy powers of certification corresponding to those which the Governor-General enjoys in British India.

(iv) See 5 b (iv) above.

### THE UNION SUPREME COURT.

7. The Union Supreme Court represents the logical development of the Princes' original idea of a Court of Arbitration. It will be staffed by a chief justice and two other judges appointed for life on high salaries, selected from the best men in Great Britain.

Its functions will consist, generally, of providing an impartial tribunal to which constitutional and other justiciable matters in dispute can be referred, subject to the approval of the Privy Council, and in particular deciding,

(a) Disputes between the Indian States' Council or a State or States on the one hand, and the Paramount Power on the other hand, as to respective rights and

obligations under treaties, agreements, and usage, sufferance or otherwise.

(b) Justifiable disputes between States

(c) Whether any statute of British India affecting a State or any legislative act of State affecting British India is *Ultra Vires* and therefore of no effect in regard to such State or British India as the case may be

(d) Issue of Law or fact underlying any political dispute.

### *Safeguards.*

(i) Where the issue before the Union Supreme Court is in the judgment of the Court in a matter of constitutional right no plea of "Act of State" will be admissible

(ii) The Union Supreme Court will have no jurisdiction over the person of a Ruling Prince

(iii) The Union Supreme Court will have no power to intervene in the judicial machinery of any State. The Union Supreme Court will not be a British India Court but a Court created by the Paramount Power and the Princes jointly. It is possible that some States might like to utilise it as their own court of appeal conferring on it jurisdiction under rules of court made by themselves to hear appeals from their own High Courts. When so sitting, it might be entitled "The Union Supreme Court sitting as court of appeal for the State of —"

### CHAMBER OF PRINCES

8. In order that the Chamber may not only perform all the functions originally proposed for it ; but also further that it may be made an effective machinery for safeguarding the position and rights of the Princes, its power and influence must be increased by :—

(1) Giving it control over the standing orders and its agenda.

(2) Giving it the right of raising any matter it likes including with the consent of the State concerned, the affairs of an individual State.

(3) Giving it the right to refer any matter it likes to Indian States' Council for consideration and action and the further right to pass resolutions upon the action taken by the Indian States' Council.

(4) Giving it its own secretariat with its own paid secretary who will be responsible to the Chamber for the conduct of the Chamber's business, and who will provide a permanent link between the Chamber and the Viceroy through the Secretary of the Indian States' Council.

(5) The Secretary of the Chamber, under the general supervision of the Chancellor and the Standing Committee, will be assisted by a special committee of ministers, appointed from time to time by the Standing Committee or the Chamber, either on their own initiative or on the suggestion of the Indian States' Council. These committees will be summoned by the Secretary of the Chamber upon the direction of the Chancellor whenever necessary.

(6) Providing in the Chambers' standing orders for committee's procedure in the Chamber with the Chancellor in the chair as when the House of Commons goes into committee and Speaker leaves the chair.

(7) Giving the Chamber some powers of final ratification over principles of policy provisionally adopted by the Indian States' Council in matters of common concern but not already worked out under the procedure suggested in 5 (b) (ii) above. It might also be prudent to apply some similar method of ratification in matters affecting either the financial interests or internal sovereignty of the States, even to actual arrangements provisionally agreed to by the Indian States' Council.

(8) Providing seats in the Chamber for members of the Indian States' Council who will have the right to be present at sittings of the Chamber (when not in



committee) but not to vote, and impose upon them the duty (a) when called upon by the president of addressing the Chamber upon specified subjects, and (b) of answering questions addressed to them under procedure to be laid down in the standing orders, by any member of the Chamber.

#### THE POLITICAL DEPARTMENT.

9. The Political Department will be under the control and direction of the Indian States' Council. Its future activities will be somewhat modified by the following provisions.—

(1) A limitation will be imposed, by Royal Proclamation or other appropriate means upon intervention in the affairs of the States (2) (c) above, and the Princes will be encouraged as well as authorised, to bring every transgression of this limit to the notice of the Indian States' Council or the Union Supreme Court according to the nature of the case, from whom the necessary redress can be obtained.

(2) A new manual of instructions to Political Officers will be framed by the Indian States' Council in consultation with the Chamber of Princes, wherein the duties of the Political Officers will be defined. This manual will not authorise interference with the domestic concerns of the States.

(3) The existing records of the Political Department will be transferred to the record office of the Indian States' Council or its officers and will be available to the scrutiny of the Prince or State concerned when a question arises affecting him or it.

*Note*—The Proposals are taken from Mr B S Pathak's "What are Indian States?" Pages 187 to 202

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## APPENDIX H.

### EXTRACTS FROM THE NEHRU REPORT.

The Committee of the All Parties Conference, popularly known as the Nehru Committee, appointed to report on the future constitution for India has devoted almost one whole chapter in its report to discuss the problem of the Indian States and their future relations to British India. After examining the attitude of the people in British India and of the Indian Princes, the Committee remarks:—"We are afraid that the present tendency to stress the problem of Indian States as presenting insurmountable obstacles in the way of British India achieving dominion status is full of incalculable mischief for both and instead of helping to bring the "two Indias" closer to each other is likely to give rise to serious misunderstandings." The Committee then proceeds to discuss the problem of relationship. It writes:—

"While the fact that there is an "Indian India" consisting of these States—some almost as big as, if not bigger than, some of the countries of Europe—enjoying in a way 'internal sovereignty', 'autonomy' and 'independence', dignities and status—may be and has to be freely admitted, we think it would be very poor statesmanship and shortsighted policy to ignore those obvious historical, religious, sociological and economic affinities which exist between the people of British India and the people of these states. Nor do we think that it is possible to erect artificial geographical barriers between the two. Ideas and opinion travel from one part of India to another much more rapidly than was the case 60 or 70 years ago, and it would be absurd to deal with the problem of Indian States on the assumption that the dynamic forces now in operation in British India can for a very long period of time be expected to spend themselves on the borders

of British India. It is inconceivable that the people of the States, who are fired by the same ambitions and aspirations as the people of British India, will quietly submit to existing conditions for ever, or that the people of British India, bound by the closest ties of family, race and religion to their brethren on the other side of an imaginary line, will never make common cause with them. In dealing with the problem, therefore, we would much rather base our conclusions upon the community of interests than upon differences of form. This community of interest would clearly point to joint action by the parties concerned as the most natural course to adopt with a view to mutual protection and advancement. Indeed if there ever was a case for a round table conference at which a perfect understanding could easily be reached it was this. With the representatives of the princes, of their people, of the British government, and of the people of British India assembled at such a conference all difficulties could have been solved with mutual good will. But most of the princes have unfortunately chosen to ignore the two most important parties—their own people and the people of British India—and have asked for or acquiesced in the appointment of the Butler Committee which, apart from the absence of necessary parties, is precluded by its very terms of reference, as we read them, from dealing with the constitutional issue "

“The constitutional position at the present moment, notwithstanding some vagueness that may surround it, is by no means difficult to understand. It is claimed that according to true constitutional theory the Indian States are and have been in relation with the Crown, whether their treaties were with the East India Company, or the British Crown, or whether they have been entered into since 1858 with the Government of India. Now it is obvious that the Crown under the constitution does not mean the King alone. It is a convenient constitutional phrase used to indicate the King-in-Parliament. Before

1858, the East India Company exercised sovereign rights under powers delegated by the 'Crown' and since 1858 those powers have been exercised under delegated authority by the Government of India and the Secretary of State, who is an integral part of the machinery established by Parliament for the Government of India. Section 67 of the Act of 1858 provided that "all treaties made by the said Company shall be binding on Her Majesty" and similarly section 132 of the Act now in force provides that "all treaties made by the East India Company so far as they are in force at the commencement of this Act are binding on his Majesty." In point of fact, the enforcement of those treaties, the fulfilment of the obligations created by those treaties, and the interpretations of those treaties, have hitherto been among the normal functions and duties of the Government of India, subject to a so-called 'appellate' or supervisory jurisdiction of the Secretary of State for India. It is inconceivable that any Indian Prince could, under the present constitution, ignore the Government of India or the Secretary of State and take up any matter relating to such obligations to the King or to his Majesty's Government. Again, the fact is that the Government of India have acquired certain powers by mere practice, usage or convention which are outside the scope of the written treaties. The Foreign Jurisdiction Act of 1890, and the Indian Foreign Jurisdiction Act XXI of 1879 have not unoften been resorted to by the Government of India for the extension of their jurisdiction.

By the resolution dated the 29th of October, 1920, the Government of India have given effect to the recommendations contained in paragraph 309 of the report on Indian Constitutional Reforms which prescribed a procedure for dealing with cases in which "the question arises of depriving a ruler of an important State, temporarily or permanently, of any of the rights, dignities, powers or privileges to which he, as a ruler, is entitled, or debarring from succession the heir apparent or any other member of

the family of such ruler who according to the law and custom of his State is entitled to succeed "

In his letter dated the 27th March, 1926, Lord Reading emphasised the constitutional position as follows —(a) The sovereignty of the British Crown is supreme in India, and therefore no ruler of an Indian State can justifiably claim to negotiate with the British Government on an equal footing. Its supremacy is not based only upon treaties and engagements, but exists independently of them and, quite apart from its prerogative in matters relating to foreign powers and policies, it is the right and duty of the British Government, while scrupulously respecting all treaties and engagements, to preserve peace and good order throughout India (b) The right of the British Government to intervene in the internal affairs of the Indian States is another instance of the consequences necessarily involved in the supremacy of the British Crown. (c) The varying degrees of internal sovereignty which the rulers enjoy are all subject to the exercise of the paramount power of this responsibility "

It is a matter of common knowledge that the exercise of these large powers, or to be more accurate, the decision of the Government of India to exercise these powers in the case of some princes in recent years, has been the subject of much comment and dissatisfaction and the exposition of the constitutional position in Lord Reading's letter to his Exalted Highness the Nizam from which we have quoted above, has led since to much searching of heart. It is not our intention or purpose to discuss the merits of the claim put forward in that letter. We simply desire to draw attention to it to show that even these large powers can only be exercised at the discretion, upon the initiative and by the machinery of the Government of India.

By usage or convention, or as a necessary corollary to the paramountcy of British power, the Government of India have claimed and exercised the right of (a) "installing" princes on the *gaddis* (b) administering the States

during the minority of the ruler, (c) settling disputes between rulers and their *jagirdars* and (d) interfering in cases of gross misrule. With any legitimate desire on the part of the Indian Princes to get their grievances in these respects remedied, it is possible, even for democratic India to sympathise ; and we feel that it is by no means impossible or impracticable to define the limits within which the Government of India, as it is constituted at present, or as it may be in future, may seek to interfere. We think however that the plain fact ought not to be overlooked that the Government of India as a dominion will be as much the King's government, as the present Government of India is, and that there is no constitutional objection to the dominion government of India stepping into the shoes of the present Government of India.

If there are personal ties of allegiance or devotion which bind the Indian princes to the throne, person or dynasty of the King, they cannot, and ought not, to suffer in strength by a change or modification in the composition of the King's government in India, when India attains dominion status. There will always be plenty of room for the discharge of those duties to the Crown and for the exercise on the part of the Crown of those prerogatives which may be inseparable from the personal relation that might have subsisted between the Crown and the Indian rulers."

Then Sir Leslie Scott's views are stated and examined, after which the committee proceeds as follows :—

"Leaving aside the theory of the relationship between the Crown and the Indian Princes and coming to the position as it is, we maintain that we are right in saying that as a matter of fact and actual practice, it is with the Government of India that the Indian Princes come into direct contact in regard to everything that concerns them or their States. It is well-known that the political secretary of the Government of India exercises vast powers over the Indian States. Without being a member of the

Government of India, he practically discharges all the functions of a member, for there is no separate member in charge of the political portfolio, the political department being supposed to be in the direct charge of the Governor-General. The present position is that if the political department gives any decision against an Indian State or an Indian ruler, the only remedy available against it is 'an appeal, under certain conditions and subject to certain limitations, to the Secretary of State.' We are aware that in the present circumstances this is supposed to be a valued right, but this is probably due to the very unsatisfactory procedure followed in the first instance in India. It is obvious that a right of appeal in a case which is not fairly tried is of little value and we think that it is possible to replace it by adequate constitutional provisions for the future.

In ordinary experience, the matters in regard to which the Indian States come into contact or conflict with the Government of India are those relating to customs, excise, extradition, railways, post offices, and ports or harbours. In addition to this, there is the bigger common interest of self-defence. It is not necessary for us to examine what are understood to be grievances of the Indian States in regard to these matters. We simply note the fact that responsible Indian rulers and ministers of Indian States have at times, raised their voice against what they have described to be the inequitable treatment which they received at the hands of the Government of India. How far those grievances are capable of being remedied, and how best they can be remedied, are matters for investigation and joint consultation, but we venture to think that their solution is not inextricably mixed up with the continuance of the present constitution of the Government of India, or the establishment of an entirely separate and independent machinery for the exclusive treatment of these subjects. If we refrain from going into this question at greater length, it is only because the public have not hitherto been permitted to know enough of the

scheme which has been in the course of incubation during the last few months. But if it is permissible to us to draw our own inferences from such statements as have been made in this connection by Sir Leslie Scott, the counsel for the Indian princes, before his departure for England, we shall sound a note of warning against the attempt that is being made to duplicate the machinery, by bringing into existence a separate Council for the Indian States to work with the Governor-General. Apart from the fact that it will be a cumbersome thing, its separate existence cannot secure the solution of matters of conflict with British India or with the future Commonwealth government. It strikes us as being a vicious extension of the system of diarchy with all its attendant incongruities, inconveniences, and constitutional difficulties.

A federation of some sort was foreshadowed by Sir Malcolm Hailey, in the speech to which we have already referred, and there is no doubt that some such idea is also present to the mind of Sir Leslie Scott. But if the constitution of India is to be a federal one, as we think it might well be, the position of the Indian States in relation to that federation appears to us to call for a definite determination and the ideas, on the subject, require to be cleared up. Are the Indian States willing and ready to join a real federation? We put this question as we believe that the lines on which the princes and Sir Leslie Scott are working cannot lead to any kind of federation in its well understood sense. 'A federal state' says professor Newton, 'is a perpetual union of several sovereign states, based first upon a treaty between those states, or upon some historical status common to them all, and secondly, upon a federal constitution accepted by their citizens. The central government acts not only upon the associated states but also directly upon their citizens. Both the internal and external sovereignty of the states is impaired and the federal union in most cases alone enters into international relations'. It would be, in our opinion, a most one sided arrangement if the Indian States desire



to join the federation, so as to influence by their votes and otherwise, the policy and legislation of the Indian Legislature, without submitting themselves to common legislation passed by it. It would be a travesty of the federal idea. If the Indian States would be willing to join such a federation after realizing the full implications of the federal idea, we shall heartily welcome their decision and do all that lies in our power to secure to them the full enjoyment of their rights and privileges. But it must be clearly borne in mind that it would necessitate, perhaps in varying degrees, a modification of the system of government and administration prevailing within their territories. We hope and trust that in the light of experience gained the Indian States may make up their mind to join formally the federation. Meanwhile, we think that it is by no means impracticable to provide suitable machinery for the settlement of mutual differences on administrative and other matters. The practical question of the preservation of their treaty rights and such independence as they have enjoyed or as they claim, is, in our opinion, far more important than the arid and academic discussion of the question, whether in theory their relations are with the Government of India or with the Crown.

Accordingly, we have provided (a) 'all treaties made between the East India Company and the Indian States and all such subsequent treaties, so far as they are in force at the commencement of this Act, shall be binding on the Commonwealth. (b) The Commonwealth shall exercise the same rights in relation to, and discharge the same obligations towards, the Indian States as the Government of India exercised and discharged previous to the passing of this Act.' We have made these suggestions in no spirit of vanity or idealism. We fully realise their implications and the obligations that such provisions will impose upon the future Government of India. We do believe that the Government of India of the future will discharge their obligations in their integrity and with

every desire to promote harmonious relations and no desire to override cherished privileges, or sentiments. Similarly, in regard to matters of a justiciable character, we have suggested that 'in case of difference between the Commonwealth and an Indian State on any matter arising out of treaties, engagements, sanads or similar other documents, the Governor-General in Council may, with the consent of the State concerned, refer the said matter to the Supreme Court for its decision.' We think that this will be a far better method of settling such matters than the present arrangement under which the Government of India is both a party and a judge in a controversy between itself and an Indian State. We need scarcely point out that we anticipate that the judges of the Supreme Court will be men of the highest legal training, character, and judicial independence.

In regard to non-justiciable matters involving financial and administrative relations, it should not be difficult to come to a settlement by mutual conferences and understandings. The position, in the future, will not to our mind, be worse than it is. Indeed it is likely to be better, where, between different States, there are honest differences and an independent effort is made to arrive at just and equitable settlements. Practical good will and larger common interest are of far greater value than any meticulous consideration of ultimate sanctions. It is obvious to our mind, that the question of common defence is one which is bound to be in future the rallying centre of the Government of India and the Indian States, and if it has been possible in the past to sustain common obligations and to keep alive a common sense of duty to the country at large, we do not despair of the future.

In making these observations we feel that we have not had the advantage of discussion with the representatives of the Indian princes, and we are alive to the possibility of much greater light being thrown on some dark corners of the entire problem by such discussions. Meanwhile, we content ourselves by saying that while we recognise

## APPENDIX I.

### EXTRACTS FROM THE MEMORANDUM OF THE INDIAN STATES' PEOPLE.

The people of the Indian States begin their memorandum by pointing out defects in the constitution of the Indian States Committee, in its terms of reference, and in the procedure adopted by it. They then deal with the question of intervention in the internal affairs of the states. In this connection they complain bitterly of the attitude of the Political Department and demand an immediate change. They write :—

“When once the duty of the Paramount Power to secure the welfare of the people of these States is admitted and understood, it is relevant to consider how this duty has been discharged during a period extending over nearly a century. The Government of India exercises the Paramount Power delegated to it by Parliament through the Foreign and Political Department. Of all departments under the Government of India this department is most irresponsible and irresponsive to the people in Indian States. This department invariably follows the lines of non-intervention in the domestic affairs of a State, whenever the interests of the people are concerned. Whenever, Imperial interests are involved or the safeguarding of the financial position of the Government of India is concerned, the Department has been active and vigilant, has used its diplomatic pressure to induce the Rulers to consent to measures required by the Paramount Power and to follow policies which are initiated by the same Power. The closing of mints, the abolition of the manufacture of salt, the construction of railways, the establishment of telegraph and telephone lines through the limits of these States, the acquisition of jurisdiction over State territories occupied by railways and telegraph lines, the abolition of all custom duties and inter-state tariff barriers for the

promotion of free trade, the introduction of British currency, the reduction of the cultivation and consumption of opium, ganja, and other articles of excise and taking the farming of these sources of revenues—all these concessions have been obtained by the Political Department from the Indian Rulers with all the diplomacy at their command. Treaty rights and obligations have never deterred them from achieving the objects of imperial policy. But whenever the people of Indian States appeal to these officers of the Political Department who are posted in the neighbourhood of these States they invariably decline to interfere on the ground of supposed treaty rights and obligations. Experience has shown that whenever a political officer is inclined to interfere (and such cases are unfortunately very rare) the Political Department successfully interferes, treaty rights and obligations notwithstanding. It is, therefore, most pertinent to ask why the Department should display active vigilant solicitude when imperial interests are involved and should display utter indifference when the welfare of the people is concerned. The Department therefore deserves to be overhauled, the mistaken application of the policy of non-intervention to be abandoned and to be made responsive to public opinion and responsible and attentive to the criticism of the Central Legislature. In view of the sovereign duty of the Paramount Power to secure the welfare of the people and the admitted dependence of the Rulers as feudatories of this Paramount Power, the statutory restrictions which have been imposed upon the discussion of any question affecting the Indian States on the floor of the Houses of the Central and Provincial Legislatures deserves to be removed. In view of the general policy of indianisation made applicable to other departments under the Government of India, it is also necessary that indianisation on a larger scale should be introduced in the Political Department. By reason of their closer contact with the people in the Indian States, by reason of their familiarity with the state of things prevailing

in the Indian States, by reason of their intimate knowledge of the traditions, customs and notions about these Royal personages and dynasties and by reason of their natural affinity and sympathy towards both the Rulers and the ruled, the Indian Political Officers would undoubtedly secure greater efficiency of the Department and considerably advance the contentment and happiness of the people in the Indian States."

"The conduct of the Political Department is also open to the criticism that it has interfered in all cases wherever the Rulers in their frenzy and headlong career of maladministration have defied not only their subjects but even the Political officers. The history of the voluntary abdications of Indore and Nabha, the trial of Malhar Rao Holkar, the deposition of the Chief of Aundh and the ultimatum sent to His Exalted Highness—all these unmistakably prove that when the authority of the Government was directly challenged, when Imperial interests were seriously affected, when Political Officers were openly flouted and when attempts were made against their lives, the Political Department hastened to interfere and adopted remedial measures; but in all cases when the Rulers have been most obedient, nay even servile to the Political Department and attentive to keep the officers of the Department mightily pleased, they have been suffered to continue their misrule to the utter prejudice and ruin of helpless subjects of the State. When misrule becomes quite intolerable and people are goaded by desperation to the verge of rebellion, the Paramount Power has interfered. Is it not, therefore, absolutely necessary to change this policy and to adopt a vigilant and watchful policy to secure good government to the people so long as they are enjoying the protection of the Paramount Power; that their sufferings should not be aggravated and should not be required to reach particular intensity before their wrongs could be redressed? Such a treatment is thoroughly unjust and does not redound to the credit of the Paramount Power.

The Indian States are in a most backward condition. With few exceptions there are no representative institutions, no association of the people with the government in any shape or at any stage and no rule of law. If only the Political Department had exerted itself as zealously as it has done in furthering Imperial interests, the moribund condition of the people of the Indian states would never have lasted till now. The Indian Princes with very few exceptions have been most obedient and loyal to the behests of the Political Officers. They have acquiesced in all policies forced upon them, though they were seriously detrimental to their interests simply with a view not to displease the Paramount Power. If, therefore, the Political officers had taken the right initiative and induced the Princes to adopt all the forms of government introduced in British India as regards administrative efficiency, good government and the stages of self-government. The backward condition of the Indian States is therefore primarily due to *laissez faire* policy of the Political Department in regard to the internal administration of the States, so far as administrative efficiency, good government and self-government are concerned."

They then paint a picture of the conditions as exist in the Indian States. They write :—

"But when once the position of a feudatory is clearly understood the obligation of maintaining good government becomes patent in the case of every state. Indian Rulers have enjoyed the blessings of peace and order for at least 75 years. But what are the vestiges of good government in the States? If we examine the conditions of Indian States from this standpoint it discloses a lamentable state of political backwardness in them. In a majority of them even local self-government does not at all exist. There are few states whose Municipal Government will come to the level of the city Municipalities of British India. Elected majorities, non-official and selected Presidents and adequate financial help hardly

characterise Municipal Administration even in the most advanced states. In a majority of them the Taluka Boards and District Boards are conspicuous by their absence. Village Panchayats, Sanitary Boards exist in States which can be counted on one's fingers. There are no representative Institutions worth the name in most of the states except the few Southern States of India. There are not even two dozen states which have got advisory Councils. Such as they exist are called representative Institutions but they are no more than glorified Municipalities. The people in the States are not associated with the Government and they have no effective voice, in the administration. Representative Institutions like British Indian Councils, with elected majorities with the rights of voting on the Budget, of moving resolutions, raising debates on matters of general interest, and asking questions hardly exist in any of the States. There is no responsibility of the Executive to the people in any state in India. Irresponsible executive exists everywhere and the people of the state do not enjoy even the bare right of criticising the administration or ventilating their own grievances. There is no extension of free and primary education, no adequate expenditure on sanitation and moral well being of the masses, the service is not manned by qualified people and is often times recruited by outsiders, is ill-paid, inefficient and often corrupt. The state is generally treated as a private estate by the Ruler, there is no definite Civil list, the Budget is not published, is not open to criticism, is not subject to independent audit, the Institution of Public Accounts Committee is unheard of, in these states. The people have got no voice in taxation, in legislation and administration of these states. This is the condition so far as the Political rights are concerned.

#### NO RULE OF LAW.

Another most important factor of constitutional Government is the rule of Law. This does not exist in

most of the Indian States barring a few rare exceptions. There is no liberty of person, no privilege of seeking a writ of Habeas Corpus, no equality of every one in the eye of law. Supreme arbitrary and discretionary power is exercised by the Ruler and Royal lawlessness is perceptible everywhere in the autocratic states. There is no security of property ; and even liberty of conscience is not generally enjoyed in a state where the Ruler belongs to a different faith from that of his subjects. There is not a single newspaper worth the name in all the 700 and odd Indian States. There is no liberty of the Press, no freedom of discussion, no liberty of meeting. The state in its corporate capacity cannot be sued in the Municipal Courts in many of the Indian States. Martial law can be proclaimed like Alwar without any safeguards for the liberties of the people. The revenues of the State are expended at the sweet will of the Ruler and the Executive is not in any way responsible or even responsive to public opinion. Such is the abject condition of almost all the Indian States even though the subjects have been under the protection of the sovereign power and even though they owe allegiance to the same power. If really the terms of reference had been liberally interpreted by the Indian States Committee and if they had held an inquiry as to whether treaty obligations have been fulfilled by the Rulers or whether the feudatory princes had discharged the obligations resting on them by reason of their feudatory position and if the people had been allowed to give evidence, abundant material would have been collected to substantiate all the statements we have made above. The present condition of almost all the States may be described in two sentences. There is no parliamentary Government or Constitutional Government in them. There is no rule of Law. Since the Indian States Inquiry Committee has refused to consider this question though it legitimately forms part of the first term of reference which is wide enough, all evidence disclosing the utter hopeless condition of the Indian States is shut out. And



this arbitrary action of the Committee would never lead to any satisfactory solution of the problem connected with the first term of reference. This attitude of the Committee, therefore, has prevented material about the inefficiency and hopelessly backward condition of the States from coming before the public. There is no publicity of any kind in Indian States. The Administration Reports and Budget Estimates are not open to the Public. As there are no representative Institutions no proceedings of such bodies exist and thus there is no possibility of getting any information about the internal condition of the States. As these Indian Princes are the trustees of the people it is necessary to hold an inquiry how far they have discharged their duties satisfactorily during their management of over 75 years. The Indian Princes are claiming independence in their domestic affairs. Before they desire this concession it is obligatory on them to prove that they deserve this privilege by reason of the proper administration of their states. Such an inquiry is indispensable before any modifications are made in the existing relations of these states. It is obligatory on the Paramount Power to satisfy themselves by the evidence of those who are immediately concerned with this rule as to how far the Indian Rulers are entitled to claim larger measure of freedom in their internal affairs, and a proportionate relaxation of control of the Paramount Power. The interest of the people of the Indian States would be seriously prejudiced if any privileges are conferred upon the Indian Rulers without a thorough investigation of the manner in which they have managed their own states. "From the point of view of the duty of good Government, native rulers may be regarded as the agents or great hereditary officers of the British Empire at large for the administration of part of its varied possessions" (Tupper, Page 356). It is necessary to call upon these agents to render account of their management."

The people of the Indian States did not consider the Indian States Committee competent to deal with the

wider questions raised by them and they demand the appointment of a Royal Commission. They write :—

“The people of the Indian States, therefore, demand that a *Royal Commission* should be appointed (1) to investigate how far the Suzerain Power has discharged its duties of securing the welfare of the people of the Indian States (including citizen relations and privileged classes) who are under the protection of the Paramount Power and who owe allegiance to His Majesty the King Emperor of India, (2) to ascertain how far the feudatory states have faithfully carried out treaty obligations and the duties imposed upon them by their subordinate position to maintain good government in their States, (3) to investigate whether there exists any Parliamentary Government and the rule of Law in these Indian States, (4) whether the Indian Rulers have maintained efficiency of administration and secured the contentment of the people committed to their charge; (5) what the grievances are under which the people of Indian States are labouring by reason of autocratic rule and by reason of the neglect of duty on the part of the Sovereign Power, and (6) whether the Paramount Power has sacrificed the interests of the States in furtherance of Imperial policy and to advance Imperial interests.

After the lapse of nearly 125 years during which period the people of the Indian States have been under the suzerainty of the British Government and under the protection of the same Government, they as loyal subjects are entitled to claim a thorough investigation of their position, their constitutional rights, their liberties and their guarantees. At a time when in their vicinity in British India such inquiries have been held from time to time and liberties of the people are being enlarged through a process of evolution and when promises are given for the progressive realisation of responsible Government in British India and when active measures are adopted in furtherance of the political ideal

announced by His Majesty's Government is it unreasonable, is it improper to demand such an inquiry? Imperial responsibilities enjoin the Paramount Power, to hold such a full and comprehensive inquiry and to adopt remedial measures on the basis of the data supplied by the same."

However, tentatively, the people of the Indian States sum up the present position and put forward their demands. They write:—

"It is most interesting to compare the positions of the Rulers of the Indian States and the people of the Indian States ever since the time they have been brought under the paramountcy of the British Government. The Indian Princes have enjoyed protection of the British Indian Government which is also extended to the people of the States from foreign invasion and internal commotion. Both the rulers and the ruled in the Indian States have been perfectly loyal to the British connection. The people of the Indian States however have to bear the weight of the double allegiance. They owe allegiance to their rulers and to His Majesty the King Emperor of India. Tupper has very clearly described the double allegiance of the people of the Indian States. He maintains, "Allegiance is the obedience rendered by a subject to a sovereign. If the sovereignty is divided the obedience must be divided and in like proportion correlative with the legal duty of allegiance on the part of the sovereign. We extend protection to the subjects of the Native States first as against gross misrule, secondly as against all enemies of the British Government by our general measures for the defence of the Empire and thirdly in our ordinary relations with foreign powers because we give the subjects of Indian Native States in foreign countries, the same protection that we give to Native Indian subjects of Her Majesty." (Our Indian Protectorate, Page 354). In spite of this heavy weight of allegiance it is a matter of singular misfortune that Indian States' subjects are treated as aliens in British India under Section 2 of Act III of 1915 amending the

Foreigners' Act III of 1864. The Indian States subjects owing allegiance to His Majesty are protected by His Majesty's Government even in foreign territories but they are treated as aliens and are rendered liable for expulsion or imprisonment in British India. This is a very sad fate and thoroughly unjustified. The Indian States' People, therefore, demand that this obnoxious piece of legislation must be done away with or a new measure must be enacted treating the people of Indian States not as aliens but as British citizens, in British India. During the time of the Great War the Indian States' people cheerfully bore all the burdens, gave money to the various movements of administering relief to the wounded and disabled people. They contributed to the man-power and made sacrifices to the same extent along with their rulers. The only pity of it is that the services of the Princes have been recognised and those of the people of the States have been altogether ignored simply because the rulers were the medium through which every kind of assistance was conveyed to the Paramount Power by the people of the States. If therefore any consideration is to be shown to those who helped in great crises the people of the States are entitled to share it along with their Rulers in equal proportion. We have described the similarity between the two. The differences are equally significant.

#### A CONTRAST.

(1) The people of the Indian States were gratified with the announcement of His Majesty declaring responsible Government as the Political ideal including British India and Indian India. The rulers of the Indian States however have not shown their appreciation of this ideal and none of them has made an open declaration that he is prepared to accept this ideal and to follow it faithfully within his state and adopt such measures as may be necessary for the progressive realisation of this ideal. (2) The people of Indian States have been complaining that the Political Department dealing with the Indian States is

irresponsible and irresponsible. They also suggest that it should be made amenable to the criticism of the Central Legislature and should be made responsible to the same. The Indian Rulers by their scheme desire that this department should be a close preserve for the alien bureaucracy and should remain as irresponsible and as irresponsible as it is now so far as they are concerned. (3) The people of the Indian States have every sympathy with the reforms in British India and they centre their hopes of liberation and political salvation upon the establishment of responsible government in British India as a self-governing Dominion of the British Commonwealth of Nations. The Indian Princes are feeling nervous about the future Swaraj Government and apprehend that their privileges would be encroached upon. (4) 'The States' people never wish that the British Indian Commonwealth should be deprived of the control of the British Indian Army. They entertain absolutely no doubt about their safety and they feel as secure about their protection under the future Commonwealth as they are under the present government of India. The Indian Princes are asserting that the control over the British Indian Army should not be handed over to the Democratised Constitution in British India and should be retained under the control of the British Government for their protection and for safeguarding their treaty rights. (5) The people of the Indian States feel proud at the prospect of the future Government of India being administered by the agents of the people responsible to the people and are quite willing to recognise the swaraj government as the Paramount Power. The Indian Princes on the other hand desire that the agents of the Crown should rule over them for ever and in the same irresponsible manner as is the case today. They insist that the Political Department should be taken away from the control of the future government and they urge that they should be entirely dissociated from the future commonwealth and they are unwilling to recognise the future government as the representative of

the Paramount Power. They want to deal with the future commonwealth on a footing of equality and not in a position of subordinate alliance as is the case today. (6) The people of Indian States desire union with British and would like cheerfully to be units of the federal Government of the future. The people of Indian States entertain absolutely no suspicion about their brethern in British India. The Indian Princes through their legal advisers and supporters have betrayed distrust about British Indian people and are afraid that their position and prestige and *ijjat* and honour would suffer by any contact with self-governing India. (7) The people of Indian States feel delighted that their own brethern with all the affinities of historical, religious, sociological and economic character are being raised to the honourable position of citizens of a self-governing Dominion. . . . .

#### THE DEMANDS OF THE INDIAN STATES.

In conclusion the demands of the States' people are summarised as below :—

1. They demand that a Commission should be appointed to consider how the sovereign power have discharged their duties towards the subjects of Indian States ; how they have enforced the duties imposed upon the Indian Rulers by express treaty undertakings and how the sovereign power has prejudiced the interest of the States with a view to further imperial interests and safeguard imperial policy.

2. They desire that the political department should be more responsible to the Central Legislature and should be Indianized.

3. They demand that the mistaken policy of non-intervention should be abandoned ; one sided protection should not be given only to Rulers. Protection should be given also to the subjects to secure good Government ; or in the alternative the paramount power should not interfere either in the interest of the Ruler or the ruled in a case of conflict arising from misrule.

4. They demand that the Paramount Power should exercise their duties, and enforce obligations of the princes, and as both of them exist on express treaty rights and independently of them, to secure the welfare of the citizens of the States, the relations of the Rulers and the guarantee holders of the suzerain power.

5. They demand that the announcement of 1917 should be made applicable to the Indian States ; that the Paramount Power should make every effort to induce the Rulers to accept this ideal and should require them to make honest endeavours for the progressive realization of this ideal.

6. They demand that until responsible government is established in the States a Commission like the Permanent Mandates Commission should be instituted to prevent misuse of the powers wielded by the rulers.

7. They demand that the rule of Law must be established in every state securing to the people as their birth right liberty of person, security of property, liberty of conscience, liberty of the press, freedom of discussion, liberty of meeting, perfect equality in the eye of law of both the Rulers and the ruled, absence of arbitrary and discretionary power in the authority, absence of royal lawlessness, guarantees against martial law, control over finance, responsibility of the Executive and representative institutions.

8. They demand that the civil list in every State should be fixed regard being had to the wants of the Ruler to his dignity and honour and that any extra expenditure should require popular consent.

9. They demand that they should be given a share in the indirect taxation which they are contributing to the British Indian Exchequer. They demand that if any relief is granted to the Indian States it must be appropriated to the public utility departments of the States and that a machinery should be established through which the people of the States can enforce the Rulers to appropriate this relief to the advancement of the people.

10. They further claim that in any financial and economic adjustment between the Indian States and British Indian Government they should have a voice in the policies pursued as regards matters of common interests and that they should share in the management of departments concerning them.

11. They demand that as the subjects of Indian States owe allegiance to the King Emperor of India they should not be treated as foreigners in British India ; that even in British India they are entitled to protection and rights of British subjects as enjoyed in Foreign countries.

We are however aware that there is a school of thought which maintains that there should be absolutely no interference in the affairs of Indian States by the alien bureaucratic government, however gross and however serious misrule may be. The advocates of this school urge that people should tolerate the wrongs inflicted by a ruler and should put forward their best endeavours to move the ruler to a sympathetic consideration by their keen sufferings. We have every respect for those who believe in the intense moral virtue of suffering. We have however to submit that such high standards of self-effacement and self-annihilation are not to be found in the common run of the people. No sane man would desire alien interference if it could be possibly avoided. But in the present helpless condition of the Indian States brought about by double despotism arising out of double allegiance there is no recourse left for the dumb and oppressed seventy millions of Indian States but to appeal the Paramount Power with whom rests the ultimate responsibility to secure the welfare of the Indian States' people and who have deprived them of their common law right of rising in revolt against the ruler who rebels against law. If, however, responsible government is established in Indian States no subject of an Indian State would even remotely cherish the idea of intervention from outside. Either the Paramount Power must take prompt and immediate measures to put a stop to misrule and adopt



remedial measures or people in the States must be entrusted with political power which is enjoyed under responsible form of government. Unless the Executive becomes responsible to the people there is no hope of redemption for the people of Indian States. Either the rulers must behave as constitutional monarchs or must surrender autocratic powers and introduce responsible government. The Paramount Power must be keenly alive to its Suzerain responsibility for the welfare of the people who owe allegiance to it and to whom protection is guaranteed. It is not an act of mendicancy to appeal to the Paramount Power for redress of wrongs committed by the autocratic rulers but it is a birthright of the people of Indian States to invoke the power which guarantees them protection. We, therefore hope and trust we will not be misunderstood when we desire the Paramount Power to discharge the duties which they have undertaken by reason of their suzerain position."

NOTE:—As far as possible I have used the spellings and signs as they are printed in the Memorandum of the Indian States' People.

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## APPENDIX J.

### EXTRACTS FROM THE BUTLER REPORT

The Indian States Committee, with Sir Harcourt Butler as its Chairman, was appointed by the Secretary of State for India, on the 16th December, 1927, with the following terms of reference —

"(1) to report upon the relationship between the Paramount Power and the Indian States with particular reference to the rights and obligations arising from —

(a) treaties, engagements and sanads, and

(b) usage, sufferance and other causes; and

(2) to inquire into the financial and economic relations between British India and the states, and to make any recommendations that the committee may consider desirable or necessary for their more satisfactory adjustment

Part (1) refers only to the existing relationship between the Paramount Power and the states. Part (2) refers not only to the existing financial and economic relations between British India and the states but also invites us to make recommendations for the future."

The Committee begins its report as follows —

"Interwoven in the pink map of India are large patches of yellow which represent the Indian States. These states survived the establishment by the British of their dominion on the ruins of the Moghul empire and the Marhatta supremacy. They cover an area of 598,138 square miles with a population of 68,652,974 people, or about two-fifths of the area and one-fifth of the population respectively of India including the states but excluding Burma. Politically there are thus two Indias, British India, governed by the Crown according to the statutes of Parliament and enactments of the Indian legislature, and the Indian States under the suzerainty of the Crown

and still for the most part under the personal rule of their Princes. Geographically India is one and indivisible, made up of the pink and the yellow. The problem of statesmanship is to hold the two together."

Then follows a brief historical survey which is thus concluded :—

"In illustration of the proposition that the states have been adversely affected by the arbitrary action of the Paramount Power a considerable number of cases extending over more than a century have been laid before us by Sir Leslie Scott on behalf of the states which he represents, and in the replies of other states to our questionnaire. We are not asked, nor have we authority, to pass judgment in such cases, still less to grant a remedy. We have not heard, we have not thought it necessary to hear, the Paramount Power in regard to such cases. We are in no sense a judicial tribunal nor can we exercise judicial functions. That the Paramount Power has acted on the whole with consideration and forbearance towards the states, that many states owe their continued existence to its solicitude is undoubted and admitted. Few Governments at any time in history could look back on more than a century of action without some historical regret that certain things had been done and that certain things had not been done. Many of the grievances put forward by the states relate to times in which the administration of the states was very backward in comparison with what it is to-day. Some of the grievances have already been met by concessions on the part of the Paramount Power. One of the greatest of these, that the rights of the Princes have been given away during minority administrations, has been met by a Resolution of the Government of India in 1917. Without pressure on the states over railways India would not have the communications that it has to-day ; without pressure the states would not have shown the progress that they do to-day. Taking a broad view of the relationship between the Paramount Power and the States we hold that, thanks to good feeling and compromise

on both sides, it has in the main been one of remarkable harmony for the common weal

#### INTERVENTION BY PARAMOUNT POWER.

In the last ten years the Paramount Power has interfered actively in the administration of individual states in only eighteen cases. In nine of these interference was due to maladministration, in four to gross extravagance, or grave financial embarrassment. The remaining five cases were due to miscellaneous causes. In only three cases has the ruler been deprived of his powers. No bad record this considering the number of states and the length of time concerned! We have heard comments from some of the Princes themselves that in certain of these cases intervention should have taken place sooner than was actually the case. This is a difficult matter for which rules of procedure cannot well provide. The decision when to intervene must be left, and experience has shown that it can be safely left, to the discretion of the Viceroy of the day."

Parts II and III of the Report are so important that it is necessary to give them in full —

### "RELATIONSHIP BETWEEN THE PARAMOUNT POWER AND THE STATES

#### MORE DETAILED EXAMINATION

##### LEGAL OPINION OF EMINENT COUNSEL

We will now consider the relationship between the Paramount Power and the states in greater detail. In this we have the advantage of the opinion of eminent counsel of the legal and constitutional aspects of the questions raised by the terms of reference to us (Appendix III), an opinion placed before us by Sir Leslie Scott. With much of that opinion we find ourselves in agreement. We agree that the relationship of the states to the Paramount Power is a relationship to the Crown,

that the treaties made with them are treaties made with the Crown, and that those treaties are of continuing and binding force as between the states which made them and the Crown. We agree that it is not correct to say that "the treaties with the Native States must be read as a whole" a doctrine to which there are obvious objections in theory and in fact. There are only forty states with treaties but the term in this context covers engagements and sanads. The treaties were made with individual states, and although in certain matters of imperial concern some sort of uniform procedure is necessary, cases affecting individual states should be considered with reference to those states individually, their treaty rights, their history and local circumstances and traditions, and the general necessities of the case as bearing upon them.

#### CRITICISM OF LEGAL OPINION.

On the other hand we cannot agree with certain statements and arguments that occur in this opinion. The relationship of the Paramount Power with the states is not a merely contractual relationship, resting on treaties made more than a century ago. It is a living, growing, relationship shaped by circumstances and policy, resting as Professor Westlake has said, on a mixture of history, theory and modern fact. The novel theory of a paramountcy agreement, limited as in the legal opinion, is unsupported by evidence, is thoroughly undermined by the long list of grievances placed before us which admit a paramountcy extending beyond the sphere of any such agreement, and in any case can only rest upon the doctrine, which the learned authors of the opinion rightly condemn, that the treaties must be read as a whole. It is not in accordance with historical fact that when the Indian States came into contact with the British Power they were independent, each possessed of full sovereignty and of a status which a modern international lawyer would hold to be governed by the rules of international law. In fact, none of the states ever held international

status. Nearly all of them were subordinate or tributary to the Mughul empire, the Mahratta supremacy or the Sikh kingdom, and dependent on them. Some were rescued, others were created, by the British.

## VALIDITY OF USAGE AND SUFFERANCE

We cannot agree that usage in itself is in any way sterile. Usage has shaped and developed the relationship between the Paramount Power and the states from the earliest times, almost in some cases, as already stated, from the date of the treaties themselves. Usage is recited as a source of jurisdiction in the preamble to the Foreign Jurisdiction Act, 1890 (53 and 54 Vict. C. 37) and is recognised in decisions of the Judicial Committee of the Privy Council. Usage and sufferance have operated in two main directions. In several cases, where no treaty, engagement or sanad exists, usage and sufferance have supplied its place in favour of the states. In all cases usage and sufferance have operated to determine questions on which the treaties, engagements and sanads are silent; they have been a constant factor in the interpretation of these treaties, engagements and sanads, and they have thus consolidated the position of the Crown as Paramount Power.

## PRONOUNCEMENT BY GOVERNMENT OF INDIA, 1877.

These important effects of the operation of usage and sufferance were pointed out by the Government of India in 1877. "The paramount supremacy of the British Government," it was then said, "is a thing of gradual growth; it has been established partly by conquest, partly by treaty; partly by usage, and for a proper understanding of the relations of the British Government to the Native States, regard must be had to the incidents of this *de facto* supremacy, as well as to treaties and charters in which reciprocal rights and obligations have

been recorded, and the circumstances under which those documents were originally framed. In the life of states, as well as of individuals, documentary claims may be set aside by overt acts ; and a uniform and long continued course of practice acquiesced in by the party against whom it tells, whether that party be the British Government or the Native State, must be held to exhibit the relations which in fact subsist between them."

### STATEMENTS OPPOSED TO HISTORICAL FACT.

It is not in accordance with historical fact that paramountcy gives the Crown definite rights and imposes upon it definite duties in respect of certain matters only, viz., those relating to foreign affairs and external and internal security, unless those terms are made to cover all those acts which the Crown through its agents has considered necessary for imperial purposes, for the good government of India as a whole, the good government of individual states, the suppression of barbarous practices, the saving of human life, and for dealing with cases in which rulers have proved unfit for their position. It is not in accordance with historical fact to say that the term "subordinate co-operation" used in many of the treaties is concerned solely with military matters. The term has been used consistently for more than a century in regard to political relations. In these and other respects the opinion of counsel appears to us to ignore a long chapter of historical experience.

### RELATIONSHIP BETWEEN PARAMOUNT POWER AND STATES.

What then is the correct view of the relationship between the states and the Paramount Power? It is generally agreed that the states are *sui generis*, that there is no parallel to their position in history, that they are governed by a body of convention and usage not quite

like anything in the world. They fall outside both international and ordinary municipal law, but they are governed by rules which form a very special part of the constitutional law of the Empire. Some sixty years ago Sir Henry Maine regarded their status as quasi-international. Professor Westlake regarded the rules which regulate their status as part of the constitutional law of the Empire. A similar view was expressed by Sir Frederick Pollock, who held that in cases of doubtful interpretation the analogy of international law might be found useful and persuasive.

### SIR HENRY MAINE ON SOVEREIGNTY

In a well known passage in his minute in the Kathiawar case (1864) Sir Henry Maine refers to the relationship of divided sovereignty between the Paramount Power and the states. "Sovereignty," he wrote, "is a term which, in international law, indicates a well ascertained assemblage of separate powers or privileges. The rights which form part of the aggregate are specifically named by the publicists who distinguish them as the right to make war and peace, the right to administer civil and criminal justice, the right to legislate and so forth. A sovereign who possesses the whole of this aggregate of rights is called an *independent* sovereign; but there is not, nor has there ever been, anything in international law to prevent some of those rights being lodged with one possessor, and some with another. Sovereignty has always been regarded as divisible. It may perhaps be worth observing that according to the more precise language of modern publicists, 'Sovereignty' is divisible, but independence is not. Although the expression 'partial independence' may be popularly used, it is technically incorrect. Accordingly there may be found in India every shade and variety of sovereignty, but there is only one independent sovereign—the British Government."



## ACTIVITIES OF PARAMOUNT POWER.

We are concerned with the relationship between the Paramount Power and the states as it exists to-day, the product of change and growth. It depends, as we have already said, upon treaties, engagements and sanads supplemented by usage and sufferance and by decisions of the Government of India and the Secretary of State embodied in political practice. As a general proposition, and by way of illustration rather than of definition, the activities of the Paramount Power may be considered under three main heads: (1) external affairs; (2) defence and protection; (3) intervention.

## EXTERNAL AFFAIRS.

The Indian States have no international life. They cannot make peace or war or negotiate or communicate with foreign states. This right of the Paramount Power to represent the states in international affairs, which has been recognised by the Legislature, depends partly on treaties, but to a greater extent on usage. That this right of the Paramount Power to represent the states in international affairs carries with it the duty of protecting the subjects of those states while residing or travelling abroad, is also recognised by the Legislature. For international purposes state territory is in the same position as British territory, and state subjects are in the same position as British subjects. The rights and duties thus assumed by the Paramount Power carry with them other consequential rights and duties. Foreign states will hold the Paramount Power responsible if an international obligation is broken by an Indian State. Therefore the Princes co-operate with the Paramount Power to give effect to the international obligations entered into by the Paramount Power. For instance, they surrender foreigners in accordance with the extradition treaties entered into by the Paramount Power; they co-operate with the Paramount Power to fulfil its obligations of neutrality;

they help to enforce the duties of the Paramount Power in relation to the suppression of the slave trade. Since a foreign power will hold the Paramount Power responsible for injuries to its subjects committed in an Indian State, the Paramount Power is under obligation to see that those subjects are fairly treated. Of these duties Professor Westlake very truly says that they are owed by the states to Great Britain "as the managing representative of the Empire as a whole," and that they consist in helping Great Britain to perform international duties which are owed by her in that character. On the other hand the Paramount Power when making treaties, will, in view of special circumstances existing in the Indian States, insert reservations in order to meet these special circumstances. In all such cases there is, in practice, no difference between the states and the Paramount Power, but the states ask that they may be consulted, where possible, in advance before they are committed to action. This request is, in our opinion, eminently reasonable and should be accepted.

### INTERSTATAL RELATIONS.

Until quite recently the Paramount Power acted for the states not only in their relations with foreign countries, but also in all their relations with one another. During the present century circumstances have combined to lead to greater intercommunication between the states. But they cannot cede, sell, exchange or part with their territories to other states without the approval of the Paramount Power, nor without that approval can they settle interstatel disputes. "As we do not allow the states to go to war with one another we claim the right as a consequence, and undertake the duty of preventing those quarrels and grievances which among really independent powers would lead to international conflict." This principle, stated by Sir Henry Maine in 1863, still holds good.

## DEFENCE AND PROTECTION.

The Paramount Power is responsible for the defence of both British India and the Indian States and, as such, has the final voice in all matters connected with defence, including establishments, war material, communications, etc. It must defend both these separate parts of India against foes, foreign and domestic. It owes this duty to all the Indian States alike. Some of the states contribute in different ways to the cost of this defence by the payment of tribute, by the assignment of lands, by the maintenance of Indian States Forces. All the states rallied to the defence of the Empire during the Great War, and put all their resources at the disposal of the Government. But, whether or not a state makes a contribution to the cost of defence, the Paramount Power is under a duty to protect the states. It follows from this duty of protection, first, that the British Government is bound to do everything really necessary for the common defence and the defence of the states ; secondly, that the states should co-operate by permitting everything to be done that the British Government determines to be necessary for the efficient discharge of that duty ; thirdly, that they should co-operate by abstaining from every course of action that may be declared dangerous to the common safety or the safety of other states. These obligations are generally accepted and the states work together with the British Government to their utmost ability. It follows that the Paramount Power should have means of securing what is necessary for strategical purposes in regard to roads, railways, aviation, posts, telegraphs, telephones, and wireless cantonments, forts, passage of troops and the supply of arms and ammunition.

## PRINCES AND PEOPLE.

The duty of the Paramount Power to protect the states against rebellion or insurrection is derived from the clauses of treaties and sanads, from usage, and from

the promise of the King Emperor to maintain unimpaired the privileges, rights and dignities of the Princes. This duty imposes on the Paramount Power correlative obligations in cases where its intervention is asked for or has become necessary. The guarantee to protect a Prince against insurrection carries with it an obligation to enquire into the causes of the insurrection and to demand that the Prince shall remedy legitimate grievances, and an obligation to prescribe the measures necessary to this result.

### POPULAR DEMANDS IN STATES

The promise of the King Emperor to maintain unimpaired the privileges, rights and dignities of the Princes carries with it a duty to protect the Prince against attempts to eliminate him, and to substitute another form of government. If these attempts were due to misgovernment on the part of the Prince, protection would only be given on the conditions set out in the preceding paragraph. If they were due, not to misgovernment, but to a widespread popular demand for change, the Paramount Power would be bound to maintain the rights, privileges and dignity of the Prince, but it would also be bound to suggest such measures as would satisfy this demand without eliminating the Prince. No such case has yet arisen, or is likely to arise if the Prince's rule is just and efficient, and in particular if the advice given by His Excellency Lord Irwin to the Princes, and accepted in principle by their Chamber, is adopted in regard to a fixed privy purse, security of tenure in the public services and an independent judiciary.

### INTERVENTION

The history of intervention has already been described. Intervention may take place for the benefit of the Prince, of the State, of India as a whole.

## FOR BENEFIT OF PRINCE.

Lord Canning's adoption sanads of 1862 recited the desire of the Crown that "the Governments of the several Princes and Chiefs in India who now govern their territories should be perpetuated, and that the representation and dignity of their houses should be continued." In order to secure the fulfilment of this desire the Paramount Power has assumed various obligations in respect to matters connected with successions to the houses of the Ruling Princes and Chiefs. In the first place, it was laid down in 1891 that "it is the right and the duty of the British Government to settle successions in subordinate Native States. Every succession must be recognised by the British Government, and no succession is valid until recognition has been given." In 1917, however, this view of the position was modified and in a "Memorandum on the ceremonies connected with successions" issued by the Government of India, it was laid down that where there is a natural heir in the direct line he succeeds as a matter of course and it was arranged that in such cases the recognition of his succession by the King-Emperor should be conveyed by an exchange of formal communications between the Prince and the Viceroy. In the case of a disputed succession, the Paramount Power must decide between the claimants having regard to their relationship, to their personal fitness and to local usage. In the second place, Lord Canning's sanads guaranteed to Princes and Chiefs the right, on failure of natural heirs, to adopt a successor, in accordance with Hindu or Muhammadan Law. But such adoption in all cases requires the consent of the Paramount Power. In the third place, the Paramount Power has, in the case of a minority of a Ruling Prince, very large obligations to provide for the administration of the state, and for the education of the minor. These obligations, obvious and admitted, of the Paramount Power to provide for minorities afford, perhaps, as strong an illustration as any other of the way in which usage springs up naturally to

supply what is wanting in the terms of treaties that have grown old. Usage, in fact, lights up the dark places of the treaties.

### FOR BENEFIT OF STATE.

The conduct of the Prince may force the Paramount Power to intervene both for the benefit of the state and the benefit of the successors to the Prince. It is bound to intervene in the case of gross misrule; and its intervention may take the form of the deposition of the Prince, the curtailment of his authority or the appointment of an officer to exercise political superintendence or supervision. In all these cases a commission must, under a recent Resolution of the Government of India, be offered, to enquire and report before any action is taken. The Paramount Power will also intervene if the ruler, though not guilty of misrule, has been guilty of disloyalty or has committed or been a party to a serious crime. Similarly it will intervene to suppress barbarous practices, such as *sati* or infanticide, or to suppress torture and barbarous punishment.

### FOR SETTLEMENT AND PACIFICATION.

The small size of the state may make it difficult for it to perform properly the functions of government. In these cases the Paramount Power must intervene to carry out those functions which the state cannot carry out. The general principle was stated by Sir Henry Maine in 1864, in reference to Kathiawar. He said: "Even if I were compelled to admit that the Kathiawar States are entitled to a larger measure of sovereignty, I should still be prepared to maintain that the Government of India would be justified in interfering to the extent contemplated by the Governor-General. There does not seem to me to be the smallest doubt that if a group of little independent states in the middle of Europe were hastening to utter anarchy, as these Kathiawar States are hastening, the

Greater Powers would never hesitate to interfere for their settlement and pacification in spite of their theoretical independence."

#### FOR BENEFIT OF INDIA.

Most of the rights exercised by the Paramount Power for the benefit of India as a whole refer to those financial and economic matters which fall under the second part of our terms of reference. They will be dealt with later in our report. At this point it is only necessary to note a fact to which due weight has not always been given. It is in respect of these financial and economic matters that the dividing line between state sovereignty and the authority of the Paramount Power runs ; and, apart from interferences justifiable on international grounds or necessary for national defence, it is only on the ground that its interference with state sovereignty is for the economic good of India as a whole that the Paramount Power is justified in interposing its authority. It is not justified in interposing its authority to secure economic results which are beneficial only or mainly to British India, in a case in which the economic interests of British India and the states conflict.

#### BRITISH JURISDICTION IN CERTAIN CASES.

Some of the treaties contain clauses providing that British jurisdiction shall not be introduced into the states ; and it is the fact that the states are outside the jurisdiction of the British courts, and that British law does not apply to their inhabitants, which is the most distinct and general difference, between the states and British India. Nevertheless the Paramount Power has found it necessary, in the interests of India as a whole, to introduce the jurisdiction of its officers in particular cases, such as the case of its troops stationed in cantonments and other special areas in the Indian States, European British subjects, and servants of the Crown in certain circumstances.

## IMPOSSIBLE TO DEFINE PARAMOUNTCY

These are some of the incidents and illustrations of paramountcy. We have endeavoured, as others before us have endeavoured, to find some formula which will cover the exercise of paramountcy, and we have failed, as others before us have failed to do so. The reason for such failure is not far to seek. Conditions alter rapidly in a changing world. Imperial necessity and new conditions may at any time raise unexpected situations. Paramountcy must remain paramount; it must fulfil its obligations defining or adapting itself according to the shifting necessities of the time and the progressive development of the states. Nor need the states take alarm at this conclusion. Through paramountcy and paramountcy alone have grown up and flourished those strong benign relations between the Crown and the Princes on which at all times the states rely. On paramountcy and paramountcy alone can the states rely for their preservation through the generations that are to come. Through paramountcy is pushed aside the danger of destruction or annexation.

PRINCES SHOULD NOT BE HANDED OVER  
WITHOUT THEIR AGREEMENT TO NEW  
GOVERNMENT IN INDIA RESPON-  
SIBLE TO INDIAN LEGISLATURE

Realising this, the states demand that without their own agreement the rights and obligations of the Paramount Power should not be assigned to persons who are not under its control, for instance, an Indian government in British India responsible to an Indian legislature. If any government in the nature of a dominion government should be constituted in British India, such a government would clearly be a new government resting on a new and written constitution. The contingency has not arisen; we are not directly concerned with it; the relations of the states to such a government would raise questions of law and policy which



we cannot now and here foreshadow in detail. We feel bound, however, to draw attention to the really grave apprehension of the Princes on this score, and to record our strong opinion that, in view of the historical nature of the relationship between the Paramount Power and the Princes, the latter should not be transferred without their own agreement to a relationship with a new government in British India responsible to an Indian legislature.

### III—FINANCIAL AND ECONOMIC RELATIONS BETWEEN BRITISH INDIA AND THE STATES. MACHINERY.

#### IMPORTANCE OF QUESTION.

The second part of our enquiry is the more immediately practical, opening up as it does the financial and economic relations between British India and the states. In our tours round the states we were impressed with the importance of this problem. On all sides we found demands for better and more expensive administration. These demands originate with the desire of the Princes themselves, the claims of their subjects and the impact of rising standards from adjacent territories of British India.

#### DISABILITIES OF STATES.

The disabilities under which the Princes feel that they lie fall under two main heads: (1) disabilities in regard to their relations with British India, and (2) disabilities in regard to their relations with the Political Department. We will deal with them in this order.

#### STATES AND BRITISH INDIA.

The Princes do not wish to interfere in matters affecting British India; they recognise "the obligation of mutual abstention." Their main contention is that where

their interests and those of British India collide or conflict they should have an effective voice in the discussion and decision of the questions that may arise. They recognise the interdependence of British India and the states, they realise the necessity for compromise, but they claim that their own rights should receive due recognition. They contend that in the past their rights of internal sovereignty have been infringed unnecessarily and that their case is not sufficiently presented or considered under the existing system.

## PRESENT CONSTITUTION OF GOVERNMENT OF INDIA

Under that system the agent for the Crown is the Governor-General in Council. On that Council there are six members in addition to the Commander-in-Chief who deals with military matters, a Home Member, a Finance Member, a Law Member, a Member for Railways and Commerce, a Member for Industries and Labour, and a Member for Education, Health and Lands. There is no political member. The Viceroy holds the portfolio of the Political Department. When a political case goes before the council, the Political Secretary attends the meeting to state and explain it, but he cannot discuss it with the members on equal terms and he cannot vote upon it. Where the interests of the states are opposed to the interests of British India there must of necessity—such is the contention of the Princes—be a solid body of opinion predisposed in favour of British India.

## POLITICAL MEMBER OR MEMBERS OF COUNCIL NOT RECOMMENDED

We think that there is foundation for the complaints of the Princes. Indeed it has long been recognised that in this respect the states are at a disadvantage. At different times in the last thirty years and more a proposal has been considered that there should be a political member of the Governor-General's Council. There are two main

objections to this proposal: (a) that the Princes attach great importance to direct relations with the Viceroy as representing the Crown; (b) that the appointment of a political member would still leave the states in a large minority in the voting power of the council. Objection (a) is, in our opinion, insurmountable. Once a political member of the Governor-General's Council is appointed, direct personal relations with the Viceroy will inevitably decline. Objection (b) is to some extent met by a proposal to have two or more political members of the Governor-General's Council. This remedy would increase the difficulty under (a) and there would not be enough work for more than one political member, let alone any question of the effect on British India of such a radical alteration of the existing constitution. After careful consideration we are unable, as others before us have been unable, to recommend the creation of a political membership of Council. The disadvantages of any such proposal in our opinion outweigh the advantages. We are greatly impressed by the importance which the states attach to direct relations with the Viceroy and by the immense value of the Viceroy's personal influence with the Princes.

#### UNAUTHORISED SCHEME OF REFORM.

A scheme was published in India in April, 1928, purporting to represent the views of certain Princes. The publication at that time was unauthorised, but a scheme on similar lines was revived and put before us in the form adopted by the Council of the European Association in their memorandum to the Indian Statutory Commission. The original scheme interposed between the Political Department and the Viceroy a Council of six members, three Princes or state ministers, two English members with no previous experience of India, and the Political Secretary. This states council would become the executive body directing the Political Department. In matters of common concern to British India and the States this states council would meet the existing Governor-General's

Council and endeavour to arrive at a joint decision. In the event of a difference of opinion the Viceroy and Governor-General would decide. In order to reconcile the Princes to the loss of sovereignty within their individual states numerous safeguards were devised which would have stripped the new body of any real power of effective action. In addition it was part of the scheme to establish a supreme court with powers to settle disputes between the new council and individual states or between individual states, and to pronounce on the validity of legislation in British India affecting the states.

### OBJECTIONS TO SCHEME

The objections to this scheme, apart from any question of its cost, are many. The following only need be mentioned.—

(1) It would put the Viceroy out of touch with the Princes, a matter to which, as already stated, the Princes attach the greatest importance.

(2) British India could hardly be expected to join the states on the basis of equal voting power in view of their relative size and population, not to mention any question of relative advancement.

(3) A Prince could hardly join an executive body of the kind proposed without ceasing for the time to be ruler in his own state; and many Princes would object to be placed under other Princes or ministers of their own or other states.

(4) There would be quite insufficient work for such a body since the number of cases of any real importance arising in any year are very few.

(5) Such a council would inevitably lead to greater interference in the internal affairs of individual states, especially of the smaller states.

(6) There would be a large surface of possible conflict between the new states council and the existing

Chamber of Princes and its Standing Committee. This is recognised but not sufficiently provided for by the safeguards of the scheme.

### DIFFICULTIES OF FEDERATION.

No help can, in our opinion, be derived from any such scheme. Indeed, it would seem quite clear that any schemes of what may be called, perhaps loosely, a federal character are at present wholly premature. The states have not yet reached any real measures of agreement among themselves. Hence, it is that no constructive proposal has been placed before us. Hence it is that the Chamber of Princes must for the present remain consultative. Hence, it is that no action has been taken on the recommendation of the Montagu-Chelmsford report that the proposed Council of Princes and the Council of State, or the representatives of each body, should meet in consultation on matters of common concern. Criticism there is in abundance but there is no concrete suggestion of reform. We have been told often that the system is wrong but no alternative system has been suggested. We are convinced that the system is not greatly at fault, but some adjustments of it to modern conditions are required.

### VICEROY TO BE AGENT FOR CROWN.

For the present it is a practical necessity to recognise the existence of two Indias and to adapt machinery to this condition. To this end we advise that in future the Viceroy—not the Governor-General in Council as at present—should be the agent for the Crown in all dealings with the Indian States. This change will require legislation but it will have three distinct advantages ; first it will gratify the Princes to have more direct relations with the Crown through the Viceroy, secondly it will relieve them of the feeling that cases affecting them may be decided by a body which has no special knowledge of them, may have interests in opposition to theirs, and may

appear as a judge in its own cause, and thirdly it will, in our opinion, lead to much happier relations between the states and British India, and so eventually make coalition easier.

### CHANGE IN PRACTICE NOT GREAT.

In practice the change proposed will not be so great as may at first sight appear, nor will it throw a burden of new work on the Viceroy. The Viceroy holds the political portfolio at present and the great bulk of the work of the Political Department is disposed of by him with the help of the Political Secretary. It is at the Viceroy's discretion whether a political case should go before council. On all ceremonial occasions the Viceroy alone represents the states. The Royal Proclamation inaugurating the Chamber of Princes, dated the 8th February, 1921, was addressed by His Imperial Majesty the King-Emperor to "His Viceroy and Governor-General and to the Princes and Rulers of the Indian States."

### COMMITTEES IN MATTERS OF COMMON CONCERN.

There will of course be matters of common concern to British India and the states in which the interests of the two may clash. The natural procedure in such cases when the political Department and another Department of the Government of India cannot agree, will be for the Viceroy to appoint committees to advise him. On such committees both British India and the states may be represented. The appropriate departmental Standing Committees of the Legislative Assembly may meet the Standing Committee of the Chamber of Princes, or a technical committee of the Chamber of Princes, consisting wholly or partly of ministers of states, it being often difficult for the Princes themselves to leave their states. A convention of this kind may well grow up, beginning, if desired, in cases where legislation is in prospect.

FORMAL COMMITTEES IN CASES OF  
DISAGREEMENT.

In cases in which such committees fail to agree the Viceroy may appoint a more formal committee consisting of a representative of the states and a representative of British India with an impartial chairman of not lower standing than a High Court judge. Such a committee would offer advice only, although ordinarily such advice would be taken. In the event of their advice not being taken the matter would be referred for decision by the Secretary of State. This procedure would be specially suitable in cases of clashing interests in financial or justiciable questions, such as over maritime customs, or the development of ports, claims to water, etc. Committees of this kind were successfully appointed in disputes between the states and British India some twenty years ago and were recommended by the Montagu-Chelmsford report.

RECOMMENDATION OF MONTAGU-CHELMSFORD  
REPORT.

Paragraph 308 of that report runs as follows:—

“Our next proposal is concerned with disputes which may arise between two or more states, or between a state and a local government or the Government of India, and with a situation caused when a state is dissatisfied with the ruling of the Government of India or the advice of any of its local representatives. In such cases there exists at the present moment no satisfactory method of obtaining an exhaustive and judicial inquiry into the issues, such as might satisfy the states particularly in cases where the Government of India itself is involved, that the issues have been considered in an independent and impartial manner. Whenever, therefore, in such cases the Viceroy felt that such an inquiry was desirable, we recommend that he should appoint a commission, on which both parties would be represented, to inquire into the matter in dispute

and to report its conclusions to him. If the Viceroy were unable to accept the finding the matter would be referred for decision by the Secretary of State. The commission that we have in mind would be composed of a judicial officer of rank not lower than a High Court judge and one nominee of each of the parties concerned."

### FAILURE TO USE ACCEPTED PROCEDURE

This procedure was accepted by the Government of India in Foreign and Political Department Resolution No. 427-R., dated the 29th October, 1920, but, unfortunately we think, has never been acted upon. We attach the greatest importance to the free adoption of this procedure in current cases. It will, in our opinion, satisfactorily dispose of all ordinary differences of opinion as they arise.

### STATES AND POLITICAL DEPARTMENT

The disabilities of the Princes in regard to their relations with the Political Department present fewer difficulties. There must be a Paramount Power and there are many questions which the Paramount Power alone can decide. We think it vitally necessary that there should be in the future constant full and frank consultation between the Political Secretary and the Standing Committee of the Chamber of Princes or their technical advisers, and in order that this may not be left to chance we recommend that there should be a fixed number of meetings on fixed dates not less than three in every year. Excellent results followed such consultation in the measures taken to codify political practice. As already stated, of the twenty three and more points in dispute nine were settled satisfactorily to all concerned. We recommend the continuance of this procedure. Its success was arrested mainly because after discussion with the Standing Committee, the resultant conclusions were circulated to local governments and political officers for opinion with inevitable delay and re-opening of questions. In our opinion



there will be no difficulty in coming to satisfactory compromises provided that effect is given to such compromises without further delay. Political officers and representatives of other departments and of local governments can, when necessary, be associated with the Political Secretary in the course of the discussions. But the resultant conclusions should go straight to the Viceroy for his decision without further circulation for opinion or discussion. The views of those Princes who remain detached from the Chamber may be obtained separately or subsequently.

### SERVICES OF POLITICAL DEPARTMENT.

We have formed the highest opinion of the work of the Political Department. It has produced a long series of eminent men whose names are regarded with affectionate esteem throughout the states. The Princes themselves as a body recognise that they owe much of their present prosperity and progress to the friendly advice and help of political officers and, it may be added, to the education which they have received at the Chiefs' Colleges. Their relations with political officers are a credit to both. The position of a political officer is by no means an easy position. It calls for great qualities of character, tact, sympathy, patience and good manners. He has to identify himself with the interests of both the Paramount Power and the Princes and people of the states and yet he must not interfere in internal administration. There have been failures, and harsh and unsympathetic political officers, no doubt. It is not possible that any system can wholly provide against such a result. But the mischief done by one unsuitable officer is so great that no effort should be spared to get the best men possible.

### RECRUITMENT AND TRAINING OF POLITICAL OFFICERS.

At present political officers are recruited into one department for foreign work (work on and beyond the

frontiers) and for political work (work in the states) from the Indian Civil Service and the Indian Army. These sources of supply are now limited. Both the Indian Civil Service and the Indian Army are short-handed. Thoughtful political officers are concerned as to the future recruitment for their department. They think that the time has come to recruit separately from the universities in England for service in the states alone. We commend this suggestion for consideration. We realise the difficulties of maintaining small services, but the importance of getting the best men possible is so great that no difficulties should be allowed to stand in the way. It is also very important to train them properly when appointed. Under existing rules they learn administrative work in a British district and thereafter pass examinations in Lyall's "Rise and expansion of the British Dominion in India," Lyall's "Asiatic studies," Tod's "Rajasthan," Malcolm's "Central India," Sleeman's "Rambles and Recollections," the Introduction to Aitchison's Treaties, and the Political Department Manual. All this is valuable, but we advise also a short course under a selected political officer with lectures on Aitchison's Treaties and on political ceremonial, and special study of the language and customs of the people and all those graceful courtesies of manner and conduct to which Indians attach supreme importance. It might also be possible to arrange at some early period in their career to attach the young officers to our embassies or ministries for a further short course of training.

#### POSITION OF POLITICAL SECRETARY

It has been represented to us that the pay and precedence of the Political Secretary should be raised so as to give him a special position among the Secretaries to Government and thus assist him to approach other departments with added weight and authority.

#### NEW SPIRIT NEEDFUL.

Our proposals are designed to remedy existing difficulties with the least possible disturbance. It must be

remembered that the states are a very heterogeneous body at varying stages of development, conservative and tenacious of traditions in an unusual degree. It is important to build on existing foundations and to allow conventions to grow up. A spirit of joint action will, it is hoped, arise between British India and the states. It may be too much to hope that Ephraim will not envy Judah and that Judah will not vex Ephraim, but India is a geographical unity and British India and the states are necessarily dependent on one another.

### DOOR TO CLOSER UNION LEFT OPEN.

We have left the door open to closer union. There is nothing in our proposals to prevent the adoption of some form of federal union as the two Indias of the present draw nearer to one another in the future. There is nothing in our proposals to prevent a big state or a group of states from entering now or at any time into closer union with British India. Indeed, in the next section of our report we make suggestions which, if adopted, may have this result. These things may come. But it has been borne in upon us with increasing power, as we have studied the problems presented to us that there is need for great caution in dealing with any question of federation at the present time, so passionately are the Princes as a whole attached to the maintenance in its entirety and unimpaired of their individual sovereignty within their states."

Part IV deals with financial and economic relations. It is only necessary to give here the first few pages.

"The cases put before us are many and various. India has long memories and it might almost be said that we have become a target for the discharge of a century of hopes unrealized. Some of these exhumations raise questions that are in no sense financial or economic. Some are peculiar to one or two states. Some involve discussions

that are highly technical. Some have been under consideration for several years. A whole literature has in fact grown up. We do not think it necessary to enter into great detail. It will be preferable to deal in a general way with the points of general interest. If our recommendations as to general solutions and machinery are accepted there will be no difficulty in settling individual cases of a more particular character. In making our proposals we have kept in mind three points especially, a due regard for the internal sovereignty of the states, the need of reciprocity between them and British India, and the natural and legitimate effects of prescription.

#### MARITIME CUSTOMS.

The most important claim of the states is for a share in the maritime customs the proceeds of which are employed at present exclusively by British India. The Princes maintain that the maritime customs paid on goods imported into their territory are in effect transit duties, that the British Government in the past has persuaded them to abolish transit duties in their own states on the ground that they are injurious to the trade of India as a whole, that the British Government by its maritime customs duties imposes an indirect tax on the subjects of the states, and that it is an elementary principle that revenue derived from any taxation is the due of the government whose subjects consume the commodities taxed. Many states recognise that in view of their number, scattered all over India, it is not possible to claim free transit in bond to destination in the states; they recognise also that consumption per head in the states is less than consumption per head in British India; but they claim a share of the imperial revenue derived from the maritime customs to be arranged with individual states on an equitable basis.

#### RIGHTS OF THE CASE.

We have no doubt that customs duties are not transit

every country has from its geographical position the right to impose customs duties at its frontier, that such customs duties have been imposed by British India and indeed by the maritime or frontier Indian States for a long period without objection or protest on the part of the inland states. Separate conventions or agreements have been made by the British Government with maritime or frontier states such as Travencore, Cochin, Baroda, the leading Kathiawar states and Kashmir, thereby recognising the rights and advantages secured to those states by geographical position. Hyderabad has a separate treaty, the interpretation of which is under discussion. The Barcelona Convention (1921) has been referred to in support of the claim of the states. Under that convention the signatories agree, subject to certain conditions to freedom of transit of goods across territory under the sovereignty or authority of any one of the contracting states. But article 15 of that convention expressly excludes states in the position of the Indian States. Most inland states in India still impose their own import and export duties ; Mysore being the big exception. In many states the import and export duties yield a share of the state revenue second only to land revenue, especially in areas of deficient rainfall where the land revenue is a very variable item. In the aggregate these state duties amount to four and a half crores of rupees or about £3,375,000 a year. On principle then we hold that British India is fully entitled to impose maritime customs for the purposes of India as a whole. It is a central head of revenue in which the Provinces of India have no share.

### EQUITY OF THE CASE.

We consider, however, that the States have a strong claim to some relief. So long as the maritime customs were on a low level (about 5 per cent. *ad valorem*) there was no substantial grievance. If the British Government imposed duties at the ports the states imposed duties on their frontiers. Each treated the other as the other

treated it. But in the year 1921-22, the maritime customs were greatly raised under many heads, and later on a policy of discriminating protection was adopted in British India with the result that the revenue from maritime customs has risen from some five to nearly fifty crores of rupees. The states were not consulted in regard to this policy. The majority of them derive no benefit from protection and their subjects have to pay the enhanced price on imported goods, in effect a double customs duty, their taxable capacity being reduced to the extent of the maritime duty. This, in our opinion, is a real and substantial grievance which calls for remedy. The degree and amount of the relief in individual states, however, requires careful examination. If the states are admitted to a share of the customs revenue of British India, British India may legitimately claim that the states should bear their full share of imperial burdens, on the well established principle that those who share receipts should also share expenditure.

### ZOLLVEREIN.

Undoubtedly the ideal solution would be a zollverein combined with the abolition of internal customs in the states themselves. There would then be free transit of goods over India once they had paid maritime customs. During Lord Reading's viceroyalty a suggestion for such a zollverein was drawn up—but not put forward—on the following lines :—

- (1) the adoption of a common tariff administered by the officers of the Government of India even in maritime states ;
- (2) the abolition of all inland customs ,
- (3) the division of the customs revenue among British India and the different Indian States according to population ; and
- (4) the association of representatives of the Indian States with the Indian Legislature in the determination of policy.

## DIFFICULTIES OF ZOLLVEREIN.

Such a zollverein would be of great advantage to India as a whole and large sacrifice would be justified in order to secure it. Many states appear unwilling at present to enter into a zollverein. They attach importance to their customs as a sign of sovereignty. They cannot afford to give up the revenue from their customs without guarantees against loss ; and they realise that owing to reasons of budget secrecy they can never be fully consulted in regard to changes in the tariff from year to year. It may be possible to overcome these objections by liberal financial treatment. As already stated some 4½ crores of rupees are raised by the states in their own local import and export duties, and it seems probable that on any calculation their share of the maritime customs would be considerably larger than this. In any case it is not impossible that individual large states would come into a zollverein on terms and no obstacle should, in our opinion, be placed in the way of such a solution.

## FINANCIAL SETTLEMENT.

The questions involved are very intricate. The incidence of the state import and export duties varies from state to state. One state depends mainly on the former, its neighbour on the latter. We recommend that an expert body should be appointed to enquire into (1) the reasonable claims of the state or group of states to a share in the customs revenue, and (2) the adequacy of their contribution to imperial burdens. The question of a zollverein would come at once before such a body. The terms of reference would be discussed with the Princes, who would, of course, be represented on the enquiring body. In the result a financial settlement would be made between the Imperial Government and the state or group of states on the lines of settlements made in the past between the Imperial and Provincial Governments. Such

a procedure would no doubt take time    Much new ground will have to be broken

### CLAIMS OF STATES UNDER OTHER HEADS

In making this settlement the reasonable claims of the states under other heads could also be considered. It may be that on a financial settlement of this kind will in time grow up closer political relations between the states and British India.

### STATES TO BE CONSULTED

The states unquestionably have a claim to consultation in matters of general policy as to maritime customs. In practice they cannot share in year to year alterations of the tariff, in regard to which secrecy is necessary, and the decision of which must rest with the Imperial Government. It would seem sufficient at present to lay down the general principle of consultation when possible and to insist that the Tariff Board should consult the Political Department and the states whenever their interests are affected. The question of the representation of Indian States on the Tariff Board was definitely rejected by the Indian Fiscal Commission for the reasons given in paragraph 301 of their report.

### CONCESSION TO MEMBERS OF THE CHAMBER IN THEIR OWN RIGHT.

In the case of Princes having a salute of 21 or 19 guns, a concession is made by which all goods imported for their personal use and the use of their families are exempt from customs duty. This differentiation is not unnaturally felt to be invidious. We recommend that this exemption should be extended to all Princes who are members of the Chamber of Princes in their own right. Such a concession would grant some immediate relief in a form particularly acceptable to the Princes.



## RAILWAYS.

No financial or economic question of a general character arises in connection with railways. It has been suggested but not argued, that as the railway budget makes an annual contribution to Imperial general revenues from its surplus the states should have a share. It is admitted that for a long time the railways were run at a loss, the deficit being made good by the tax-payer of British India. Most of the railways were built from capital raised in the open market with or without guarantee by the Government of India of a minimum rate of interest. Some states financed the construction of local lines or blocks of lines on terms arranged between them and the Imperial Government. Some states are ordinary shareholders in the railways. In the old days the states usually gave the land and materials, stone, ballast, wood, etcetera, without receiving compensation in cash, in consideration of the great benefits accruing to the states from being opened up by railways. Under recent arrangements the states receive compensation. We cannot find that the states have any reasonable claim to a share of the annual profits now made by the railways. A general control of railway construction must in the interest of the development of India as a whole lie with the Paramount Power."

The Report concludes thus:—

"It only remains to summarise our conclusions. There are two Indias under different political systems, British India and the Indian States. The latter differ so greatly among themselves that uniform treatment of them is difficult, if not impossible. Treaties, engagements and sanads, where they exist, are of continuing valid force but have necessarily been supplemented and illumined by political practice to meet changing conditions in a moving world. We have traced and analysed the growth of paramountey. Though it has already lost and should

continue to lose any arbitrary character in full and open discussion between the Princes and the Political Department, it must continue to be paramount and therefore it must be left free to meet unforeseen circumstances as they arise. We find that the relationship between the Princes and the Paramount Power has on the whole been harmonious and satisfactory. No practical proposals for new machinery have been placed before us but we have indicated changes in procedure, based on experience, which should lead to the removal of grievances and the settlement of outstanding questions. In particular we recommend that the Viceroy, not the Governor-General in Council, should in future be the agent of the Crown in its relations with the Princes, and that important matters of dispute between the states themselves, between the states and the Paramount Power, and between the states and British India should be referred to independent committees for advice. We have suggested methods for recruiting and training officers of the Political Department, to which we attach great importance. We have indicated ways of adjusting political and economic relations between British India and the states. We hold that the treaties, engagements and sanads have been made with the Crown and that the relationship between the Paramount Power and the Princes should not be transferred, without the agreement of the latter, to a new government in British India responsible to an Indian legislature. But we have left the door open for constitutional developments in the future. While impressed with the need for great caution in dealing with a body so heterogeneous as the Indian Princes, so conservative, so sensitive, so tenacious of internal sovereignty, we confess that our imagination is powerfully affected by the stirrings of new life and new hopes in the states, by the progress already achieved and by the possibilities of the future. To that future we can merely open a vista. Our terms of reference do not invite us to survey the distant hills and the valleys that lead to them. But we are confident that the Princes, who in war

and peace have already rendered such signal service, will play a worthy and illustrious part in the development of India and the Empire.

HARCOURT BUTLER.

SIDNEY PEEL.

W. S. HOLDSWORTH."

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